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सं. 49] नई दिल्ली, दिसम्बर 2—दिसम्बर 8, 2007, शनिवार/अग्रहायण 11—अग्रहायण 17, 1929
No. 49] NEW DELHI, DECEMBER 2—DECEMBER 8, 2007, SATURDAY/AGRAHAYANA 11—AGRAHAYANA 17, 1929

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके

Separate paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)
नई दिल्ली, 22 नवम्बर, 2007

क्र.आ. 3422.—केंद्रीय सरकार एतद्द्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय अन्वेषण ब्यूरो के निम्नलिखित अभियोजन अधिकारियों को विचारण न्यायालयों में दिल्ली विशेष पुलिस स्थापना (कें.अ. ब्यूरो) द्वारा संस्थित मामलों और किसी राज्य अथवा संघ शासित क्षेत्र में, जिन पर उक्त धारा के उपबंध लागू होते हैं, विधि द्वारा स्थापित पुनरीक्षण अथवा अपील न्यायालयों में इन मामलों में उद्भूत अपीलों, पुनरीक्षणों अथवा अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है :-

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1. राजेश प्रकाश नेगी
2. चंकि गुप्ता
3. एन. नारायण
4. मनमोहन शर्मा
5. मितांशु शंकर मिश्रा
6. मतीश चंद्र जायसवाल
7. नरेंद्र प्रताप श्रीवास्तव

8. सुरेश कुमार श्रीवास्तव
9. श्रीमती नीलम सिंह
10. सुश्री डी.एस. पूर्णिमा
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15. ब्रजेश सिंह
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17. अतुल कुमार
18. प्रवीण श्रीवास्तव

[सं. 225/33/2006-ए.वी.डी.-II]

चंद्र प्रकाश, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC
GRIEVANCES AND PENSIONS
(Department of Personnel and Training)

New Delhi, the 22nd November, 2007

S.O. 3422.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal

Procedure, 1973 (Act No. 2 of 1974), the Central Government

hereby appoints following Prosecuting Officer of the Central Bureau of Investigation as Special Public Prosecutor for conducting cases instituted by the Delhi Special Police Establishment (CBI) in trials courts and appeals, revisions or other matters arising out of these cases in revisional or appellate Courts, established by law in any State or Union Territory to which the provisions of the aforesaid section apply :—

S/Shri

1. Tejasvi Prakash Negi
2. Pankaj Gupta
3. N. Nagendran
4. Manmohan Sharma
5. Sitanshu Sekhar Mishra
6. Satish Chandra Jaiswal
7. Narendra Pratap Srivastava
8. Suresh Kumar Srivastava
9. Mrs. Neelam Singh
10. Ms. D. S. Poornima
11. Sanjeev Kumar Yadav
12. Manoj Shukla
13. Arvind Kumar Mishra
14. Praneet Sharma
15. Brijesh Singh
16. Ms. Padmini Singh
17. Atul Kumar
18. Praveen Srivastava

[No. 225/33/2006-AVD-II]

CHANDRAPRAKASH, Under Secy.

शुद्धि पत्र

नई दिल्ली, 23 नवम्बर, 2007

का.आ. 3423—कार्मिक और प्रशिक्षण विभाग के दिनांक 8 अक्टूबर, 2007 की समसंख्यक अधिसूचना का आंशिक संशोधन करते हुए, क्रम संख्या-11 पर दिए गए नाम को 'सुश्री पूनम गुप्ता' को बजाय 'सुश्री पूर्णिमा गुप्ता' पढ़ा जाए।

[सं. 225/40/2007-एवीडी-II]

चन्द्र प्रकाश, अवर सचिव

CORRIGENDUM

New Delhi, the 23rd November, 2007

S.O. 3423.—In partial modification of the Department of Personnel and Training's notification of even number dated 8th October 2007, the name at Sl. No. 11 may be read as 'Ms. Poornima Gupta' instead of 'Ms. Poonam Gupta'.

[No. 225/40/2007-AVD-II]

CHANDRA PRAKASH, Under Secy.

नई दिल्ली, 27 नवम्बर, 2007

का.आ. 3424.—केंद्रीय सरकार एतद्वारा दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम सं. 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय अन्वेषण ब्यूरो के निम्नलिखित अभियोजन अधिकारियों को विचारण न्यायालयों में दिल्ली विशेष पुलिस स्थापना द्वारा संस्थित मामलों और किसी राज्य अथवा संघ शासित क्षेत्र, में जिस पर उक्त धारा के उपबंध लागू होते हैं, विधि द्वारा स्थापित पुनरीक्षण अथवा अपील न्यायालयों में इन मामलों से उद्भूत अपीलों, पुनरीक्षणों अथवा अन्य विषयों का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती हैं :—

सर्वश्री

1. एस. नटराजन
2. एम. वेंकट रमन
3. सुश्री एस. राधा
4. दीप कुमार श्रीवास्तव
5. सुरेश कुमार
6. विनय कुमार ओझा
7. राजन दहिया
8. अजहरअली अब्दुलअली अंसारी

[सं. 225/55/2007-एवीडी-II]

मनीषा सक्सैना, उप सचिव

New Delhi, the 27th November, 2007

S.O. 3424.—In exercise of the powers conferred by sub-section (8) of Section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints following Prosecuting Officer of the Central Bureau of Investigation as Special Public Prosecutor for conducting cases instituted by the Delhi Special Police Establishment (CBI) in trials courts and appeals/revisions or other matters arising out of these cases in revisional or appellate Courts, established by law in any State or Union Territory to which provisions of the aforesaid section apply :—

S/Shri

1. S. Natarajan
2. M. Venkata Ramana
3. Ms. S. Radha
4. Deep Kumar Srivastava
5. Suresh Kumar
6. Vinaya Kumar Ojha
7. Rajan Dahiya
8. Azharali Abdulali Ansari

[No. 225/55/2007-AVD-II]

MANISHA SAXENA, Dy. Secy.

वित्त मंत्रालय

(राजस्व विभाग)

(केन्द्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली, 27 नवम्बर, 2007

का.आ. 3425.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिभूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उप-धारा (1) के खंड (ii) के प्रयोजनार्थ दिनांक 12-12-2006 से संगठन संतगिरि आश्रम तिरुवनंतपुरम (केरल) को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में लगी 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, अर्थात् :-

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग सामाजिक विज्ञान के लिए किया जाएगा;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से सामाजिक विज्ञान अथवा सांख्यिकीय अनुसंधान करेगा;
- (iii) अनुमोदित संगठन बही-खाता रखेगा तथा उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा।
- (iv) अनुमोदित संगठन सामाजिक विज्ञान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित ऐसे विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित सामाजिक विज्ञान अथवा सांख्यिकीय अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5 ग और 5ड के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (iii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 278/2007/फा. सं. 203/36/2007/आ.क.नि.-II]

सुरेन्द्र पाल, अवर सचिव (आ.क.नि.-II)

MINISTRY OF FINANCE**(Department of Revenue)****(CENTRAL BOARD OF DIRECT TAXES)**

New Delhi, the 27th November, 2007

S.O. 3425.—It is hereby notified for general information that the organization Santhigiri Ashramam, Thiruvananthapuram (Kerala) has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), with effect from 12-12-2006 in the category of 'Other Institution', partly engaged in research activities subject to the following conditions, namely :—

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization :—

- (a) fails to maintain books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 278/2007/F.No. 203/36/2007/ITA-II]

SURENDER PAL, Under Secy. (ITA-II)

नई दिल्ली, 27 नवम्बर, 2007

New Delhi, the 27th November, 2007

का.आ. 3426.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (ii) के प्रयोजनार्थ दिनांक 1-4-2005 से संगठन इंडियन काउंसिल फॉर रिसर्च ऑन इंटरनेशनल ईकॉनॉमिक रिलेशन्स, नई दिल्ली को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में लगी 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, अर्थात् :-

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग सामाजिक विज्ञान के लिए किया जाएगा;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से सामाजिक विज्ञान अथवा सांख्यिकीय अनुसंधान करेगा;
- (iii) अनुमोदित संगठन बही-खाता रखेगा तथा उक्त अधिनियम की धारा 288 की उप धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा।
- (iv) अनुमोदित संगठन सामाजिक विज्ञान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित ऐसे विवरण को प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित सामाजिक विज्ञान अथवा सांख्यिकीय अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5ग और 5ड के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (iii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 280/2007/फा. सं. 203/91/2007/आ.क.नि.-II]

सुरेन्द्र पाल, अवर सचिव (आ.क.नि.-II)

S.O. 3426.—It is hereby notified for general information that the organization Indian Council for Research on International Economic Relations, New Delhi has been approved by the Central Government for the purpose of clause (iii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), with effect from 1-4-2005 in the category of 'Other Institution', partly engaged in research activities subject to the following conditions, namely :—

- (i) The sums paid to the approved organization shall be utilized for social sciences;
- (ii) The approved organization shall carry out research in Social Science or Statistical Research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for research in Social Sciences and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2 The Central Government shall withdraw the approval if the approved organization :—

- (a) fails to maintain books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for research in Social Sciences or Statistical Research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (iii) of sub-section (1) of Section 35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 280/2007/F. No. 203/91/2007/ITA-II]

SURENDER PAL, Under Secy.(ITA-II)

नई दिल्ली, 27 नवम्बर, 2007

New Delhi, the 27th November, 2007

का.आ. 3427.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5 ग और 5 ड के साथ पठित आयकर अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खंड (iii) के प्रयोजनार्थ दिनांक 12-12-2006 से संगठन संतगिरि आश्रम तिरुवनंतपुरम (केरल) को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में लगी 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, अर्थात् :-

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग वैज्ञानिक अनुसंधान के लिए किया जाएगा;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से वैज्ञानिक अनुसंधान करेगा;
- (iii) अनुमोदित संगठन बही-खाता रखेगा तथा उक्त अधिनियम की धारा 288 की उप धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा।
- (iv) अनुमोदित संगठन वैज्ञानिक अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत सत्यापित ऐसे विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :-

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित वैज्ञानिक अनुसंधान के लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा
- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ) उक्त नियमावली के नियम 5 ग और 5 ड के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खंड (ii) के प्रावधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 279/2007/फा. सं. 203/36/2007/आ.क.नि.-II]

सुरेन्द्र पाल, अवर सचिव (आ.क.नि.-II)

S.O. 3427.—It is hereby notified for general information that the organization Santhigiri Ashramam, Thiruvananthapuram (Kerala) has been approved by the Central Government for the purpose of clause (iii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), with effect from 12-12-2006 in the category of 'other Institution', partly engaged in research activities subject to the following conditions, namely :—

- (i) The sums paid to the approved organization shall be utilized for research in social sciences.
- (ii) The approved organization shall carry out research in social science or statistical research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for research in social sciences and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

3. The Central Government shall withdraw the approval if the approved organization :—

- (a) Fails to maintain books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for research in social sciences or statistical research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (iii) of sub-section (1) of section 35 of the said Act read with rules 5C and 5E of the said Rules.

[Notification No. 279/2007/F. No. 203/36/2007/ITA-II]

SURENDER PAI., Under Secy.(ITA-II)

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 28 नवम्बर, 2007

का.आ. 3428.—भारतीय स्टेट बैंक (समस्तुषणी बैंक) अधिनियम, 1959 की धारा 26 की उपधारा (2क) के साथ पठित धारा 25 की उपधारा (1) के खण्ड (गक) के अनुसरण में, केन्द्रीय सरकार, एतद्वारा, स्टेट बैंक आफ बीकानेर एंड जयपुर, बिरहाना रोड, कानपुर शाखा के विशेष सहायक श्री अशोक कुमार शुक्ला को, उनकी नियुक्ति की तारीख से तीन वर्ष की अवधि तक अथवा उनके उत्तराधिकारी को विधिवत नियुक्ति तक अथवा उनके स्टेट बैंक आफ बीकानेर एंड जयपुर के कर्मचारी बने रहने तक अथवा अगले आदेशों तक, जो भी पहले हो, स्टेट बैंक आफ बीकानेर एंड जयपुर के कर्मकार कर्मचारियों में से स्टेट बैंक आफ बीकानेर एंड जयपुर के बोर्ड में निदेशक के रूप में नियुक्त करती है।

[फा. सं. 15/2/2007-आईआर]

राजेन्द्र सूद, अवर सचिव

(Department of Financial Services)

New Delhi, the 28th November, 2007

S.O. 3428.—In pursuance of clause (ca) of sub-section (1) Section 25 read with sub-section (2A) of Section 26 of the State Bank of India (Subsidiary Banks) Act, 1959, the Central Government hereby appoints Shri Ashok Kumar Shukla, Special Assistant, State Bank of Bikaner & Jaipur,

Birhana Road, Kanpur branch, as director on the Board of State Bank of Bikaner & Jaipur from amongst the employees of State Bank of Bikaner & Jaipur, who are workmen, for a period of three years from the date of his appointment or until his successor is duly appointed or until he ceases to be an employee of the State Bank of Bikaner & Jaipur, or until further orders, whichever is earliest.

[F. No. 15/2/2007-IR]

RAJINDER SOOD, Under Secy.

नई दिल्ली, 3 दिसम्बर, 2007

का.आ. 3429.—राष्ट्रीय कृषि और ग्रामीण विकास बैंक अधिनियम, 1981 (1981 का 6) की धारा 6 की उपधारा (2) और धारा 7 की उपधारा (1) के साथ पठित धारा 6 की उपधारा (1) के खण्ड (ग) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक के परामर्श करने के पश्चात्, एतद्वारा, श्री उमेश सी. सरांगी, आईएएस (माह : 77) को उनके कार्यभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए और या अगले आदेश होने तक उन्म में जो भी सबसे पहले हो, राष्ट्रीय कृषि और ग्रामीण विकास बैंक में निदेशक के रूप में नियुक्त करती है।

[फा. सं. 7/01/2007-बीओ. 1]

जी. बी. सिंह, उप सचिव

New Delhi, the 3rd December, 2007

S.O. 3429.—In exercise of the powers conferred by clause (a) of sub-section (1) of Section 6 read with sub-section (2) thereof and sub-section (1) of Section 7 of the National Bank for Agriculture and Rural Development Act, 1981 (61 of 1981), the Central Government, in consultation with the Reserve Bank of India, hereby appoints Shri Umesh C. Sarangi, IAS (Mah : 77) as Chairman, National Bank for Agriculture and Rural Development (NABARD) for a period

of three years from the date of his taking over charge of the post and/or until further orders, whichever is earlier.

[F. No. 7/01/2007-BO. 1]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 4 दिसम्बर, 2007

का.आ. 3430.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10 की उपधारा (1) के खंड (ग) के उपखंड (1) के उपबंध पंजाब नेशनल बैंक पर उस सीमा तक लागू नहीं होंगे, जहां तक इसका संबंध पंजाब नेशनल बैंक के अध्यक्ष एवं प्रबंध निदेशक डॉ. के.सी. चक्रवर्ती के एनआईबीएम की वित्त समिति एवं स्थायी समिति के शासी निकाय के निदेशक/सदस्य के रूप में नामांकन से है।

[फा. सं. 20/5/2004-बीओ. 1]

जी.बी. सिंह, उप सचिव

New Delhi, the 4th December, 2007

S.O. 3430.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendation of the Reserve Bank of India, hereby declare that the provisions of sub-clause (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Punjab National Bank in so far as it relates to the nomination of Dr. K.C. Chakraborty, Chairman & Managing Director, as director member on the Governing Board, Finance Committee and Standing Committee of NIBM.

[F. No. 20/5/2004-BO. 1]

G. B. SINGH, Dy. Secy.

नई दिल्ली, 5 दिसम्बर, 2007

का.आ. 3431.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 10 की उपधारा (1) के खंड (ग) के उपखंड (1) के उपबंध पंजाब नेशनल बैंक पर उस सीमा तक लागू नहीं होंगे, जहां तक इसका संबंध पंजाब नेशनल बैंक के कार्यपालक निदेशक श्री के. राघुरामन को, पीएनबी गिल्ट्स लिमिटेड के निदेशक का पदभार संभालने से है।

[फा. सं. 20/5/2004-बीओ. 1]

जी.बी. सिंह, उप सचिव

New Delhi, the 5th December, 2007

S.O. 3431.—In exercise of the powers conferred by Section 53 of the Banking Regulation Act, 1949 (10 of 1949), the Government of India on the recommendation of the Reserve Bank of India, hereby declare that the provisions of sub-clause (i) of clause (c) of sub-section (1) of Section 10 of the said Act shall not apply to Punjab National Bank in so far as it relates to taking up directorship of Shri K. Raghuraman, Executive Director, Punjab National Bank on PNB Gilts Ltd.

[F. No. 20/5/2004-BO. 1]

G. B. SINGH, Dy. Secy.

विदेश मंत्रालय

(सी. पी. वी. प्रभाग)

नई दिल्ली, 30 नवम्बर, 2007

का.आ. 3432.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का प्रधान कौंसलावास, ह्युस्टन में श्री एस.एन. शर्मा, सहायक और श्री एस.के. एम. हर्सेन, स्टेनो को 30-11-2007 से सहायक कौंसली अधिकारी का कार्य करने हेतु प्राधिकृत करती है।

[सं. टी-4330/01/2006]

प्रीतम लाल, अवसर सचिव (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(C.P.V. Division)

New Delhi, the 30th November, 2007

S.O.3432.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (oaths and fees) Act, 1948, the Central Government hereby authorize Shri S.N. Sharma, Assistant and Shri S.K.M. Hussaine, Stenographer to perform the duties of Assistant Consular Officers in the Consulate General of India, Houston with effect from 30 November 2007.

[No. T. 4330/1/2006]

PRITAM LAL, Under Secy. (Consulor)

नई दिल्ली, 30 नवम्बर, 2007

का.आ. 3433.—राजनयिक कौंसली अधिकारी (शपथ एवं शुल्क) अधिनियम 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्वारा भारत का प्रधान कौंसलावास, मिलान में श्री पी.पी. चाकाचचानि, सहायक को 30-11-2007 से सहायक कौंसली अधिकारी का कार्य करने हेतु प्राधिकृत करती है।

[सं. टी-4330/01/2006]

प्रीतम लाल, अवसर सचिव (कौंसुलर)

New Delhi, the 30th November, 2007

S.O.3433.—In pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (oaths and fees) Act, 1948, the Central Government hereby authorize Shri P.P. Chackochan, Assistant to perform the duties of Assistant Consular Officers in the Consulate General of India, Milan with effect from 30th November, 2007.

[No. T. 4330/1/2006]

PRITAM LAL, Under Secy. (Consulor).

अन्तरिक्ष विभाग

बंगलूर, 20 नवम्बर, 2007

का.आ. 3434.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और आगे अन्तरिक्ष विभाग कर्मचारी (वर्गीकरण, नियंत्रण और अपील) नियम, 1976 में संशोधन करने हेतु निम्नलिखित नियम बनाते हैं :-

- (1) इन नियमों का संक्षिप्त नाम अन्तरिक्ष विभाग कर्मचारी (वर्गीकरण, नियंत्रण और अपील) संशोधन नियम, 2007 है।

- (2) ये राजपत्र में प्रकाशन की तारीख को प्रवृत्त होंगे।

2. अन्तरिक्ष विभाग कर्मचारी (वर्गीकरण, नियंत्रण और अपील) नियम 1976 के नियम 7 में :-

- (i) उप-नियम (5) में (क) खण्ड के लिए निम्नलिखित खण्ड को प्रतिस्थापित किया जाए, नामतः

(5) (क) उप-नियम (7) में दिए गए प्रावधानों के अधीन, इस नियम के तहत किये गये या किये गये के रूप में माना गया निलंबन आदेश, प्राधिकारी जो ऐसा करने के लिए सक्षम है, द्वारा संशोधन करने या वापस लेने तक जारी रहेगा।

(ii) उप-नियम (6) में "निलंबन आदेश की तारीख से नब्बे दिन समाप्त होने से पहले" शब्दों के बदले "निलंबन प्रभावी होने की तारीख से नब्बे दिन समाप्त होने से पहले" शब्द प्रतिस्थापित किया जाए।

(iii) उप-नियम (7) के लिए, निम्नलिखित उप-नियम प्रतिस्थापित किया जाए, अर्थात् :-

(7) इस नियम के उप-नियम (1) या (2) के तहत किया गया या किया गया माना गया निलंबन आदेश, यदि नब्बे दिन समाप्त होने से पहले समीक्षा के बाद इसे आगे कुछ अवधि तक इसे विस्तार नहीं किया जाता है तो नब्बे दिन के बाद मान्य नहीं होगा।

परन्तु, उप-नियम (2) के तहत, निर्लंबित माने गये मामले में यदि सरकारी कर्मचारी निलंबन के नब्बे दिन पूरा होने के समय कैद में रहता है और नब्बे दिन की गणना सरकारी कर्मचारी के कैद से मुक्त होने के दिनांक से की जाती है या कैद से मुक्त होने की तारीख उसके नियुक्ति प्राधिकारी को सूचित किया जाता है, जो भी बाद में हो, ऐसे मामले में ऐसी कोई समीक्षा की जरूरत नहीं है।

[सं. 4/5/1/2004-V]

क. एस. रामचन्द्र, उप सचिव

टिप्पणी : प्रधान नियम दिनांक 1-4-1976 को भारत के राजपत्र (आसाधारण) के भाग-II, खण्ड-3, उप-खण्ड (ii) में सं. का.आ. 270 (ई) दिनांक 1-4-1976 द्वारा प्रकाशित किया गया है और निम्नलिखित द्वारा संशोधन किया गया है :-

क्र. सं.	अधिसूचना सं.	दिनांक	का.आ.स.	दिनांक
1	2	3	4	5
1	2/10(32)/76-I	10-02-1977	780	12-03-1977
2	2/10(32)/76-I	16-5-1977	2127	25-06-1977
3	2/10(27)/76-I	01-08-1977	2709	27-08-1977
4	2/7(5)/77-I	15-02-1978	585	25-02-1978
5	2/7(5)/77-I	27-05-1978	1780	17-06-1978
6	2/9(12)/74-III	16-03-1979	1178	07-04-1979
7	9/4(1)/80-III	26-05-1980	1684	21-06-1980
8	9/4(1)/80-III	05-09-1980	2586	27-09-1980
9	9/4(1)/80-III	13-10-1980	3299	29-11-1980
10	9/4(1)/80-III	13-10-1980	3300	29-11-1980
11	9/4(1)/80-III	20-12-1980	215	17-01-1981
12	2/8(1)/81-I	28-08-1981	2592	03-10-1981
13	2/8(1)/81-I	16-07-1982	3113	04-09-1982

1	2	3	4	5
14	2/9(1)/83-IV	29-07-1985	4280	14-09-1985
15	2/5(1)/85-V	02-01-1986	510	08-02-1986
16	2/9(1)/83-IV	02-01-1986	511	08-02-1986
17	2/5(1)/86-V	17-03-1986	1309	29-03-1986
18	2/5(2)/86-V	20-10-1986	3874	15-11-1986
19	2/5(1)/90-VI	01-01-1991	99	09-02-1991
20	2/5(2)/86-V(VI) (बाल्य-III)	15-11-1991	334	01-02-1991
21	2/5(1)/91-VI	23-10-1992	2891	21-11-1992
22	2/5(1)/95-V	24-03-1995	1029	15-04-1995
23	2/5(1)/91-V	12-10-1995	2856	28-10-1995
24	2/5(1)/91-V	27-03-1996	1241	20-04-1996
25	2/5(1)/95-V	23-12-1997	83	10-01-1998
26	2/5(1)/98-V	30-06-2000	1763	05-08-2000
27	2/5(1)/98-V	27-12-2000	34	13-01-2001
28	2/5(1)/98-V	24-1-2001	254	10-02-2001
29	2/5(1)/98-V	18-3-2004	804	28-3-2004
30	4/5/1-2004-V	22-6-2005	—	—
31	4/5/1-2004-V	31-1-2006	—	—

DEPARTMENT OF SPACE

Bangalore, the 20th November, 2007

S.O. 3434. — In exercise of the powers conferred by the proviso to Article 309 of the Constitution, the President hereby makes the following rules further to amend the Department of Space Employee's (Classification, Control and Appeal Rules, 1976.) namely :—

(i) These rules may be called the Department of Space Employees' (Classification, Control and Appeal) Amendment Rules, 2007.

(ii) They shall come into force on the date of their publication in the Official Gazette.

2. In the Department of Space Employee's (Classification, Control and Appeal) Rules, 1976, in Rule 7—

(i) In sub-rule (5), for clause (a), the following clause shall be substituted, namely :—

(5) (a) Subject to the provisions contained in sub-rule (7), an order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(ii) In sub-rule (6), for the words "before the expiry of ninety days from the date of suspension," the words "before expiry of ninety days from the effective date of suspension" shall be substituted.

(iii) For sub-rule (7) the following sub-rule shall be substituted, namely :—

(7) An order of suspension made or deemed to have been made under sub-rules (1) or (2) of this rule shall not

valid after a period of ninety days unless it is extended after review, for a further period before the expiry of ninety days :

Provided that no such review of suspension shall be necessary in the case of deemed suspension under sub-rule (2), if the Government servant continues to be under detention at the time of completion of ninety days of suspension and the ninety days period in such case will count from the date the Government servant detained in custody is released from detention or the date on which the fact of his release from detention is intimated to his appointing authority, whichever is later."

[No. 4/5/1-2004-V]

K. S. RAMACHANDRA, Dy. Secy.

Note: The Principal rules were published vide No. S.O. 270 (F) dated 1-4-1976 in the Gazette of India (Extraordinary) Part-II, Section-3 Sub-Section (ii) dated, 1-4-1976 and have been subsequently amended by :

Sl. No.	Notification No.	Date	S. O. No.	Date
1	2/10(32)/76-I	10-02-1977	780	12-03-1977
2	2/10(32)/76-I	16-5-1977	2127	25-06-1977
3	2/10(27)/76-I	01-08-1977	2709	27-08-1977
4	2/7(5)/77-I	15-02-1978	585	25-02-1978
5	2/7(5)/77-I	27-05-1978	1780	17-06-1978
6	2/9(12)/74-III	16-03-1979	1178	07-04-1979
7	9/4(1)/80-III	26-05-1980	1684	21-06-1980
8	9/4(1)/80-III	05-09-1980	2586	27-09-1980
9	9/4(1)/80-III	13-10-1980	3299	29-11-1980
10	9/4(1)/80-III	13-10-1980	3300	29-11-1980
11	9/4(1)/80-III	20-12-1980	215	17-01-1981
12	2/8(1)/81-I	28-08-1981	2592	03-10-1981
13	2/8(1)/81-I	16-07-1982	3113	04-09-1982
14	2/9(1)/83-IV	29-07-1985	4280	14-09-1985
15	2/5(1)/85-V	02-01-1986	510	08-02-1986
16	2/9(1)/83-IV	02-01-1986	511	08-02-1986
17	2/5(1)/86-V	17-03-1986	1309	29-03-1986
18	2/5(2)/86-V	20-10-1986	3874	15-11-1986
19	2/5(1)/90-VI	01-01-1991	99	09-02-1991
20	2/5(2)/86-V(VI) (बाल्य-III)	15-11-1991	334	01-02-1991
21	2/5(1)/91-VI	23-10-1992	2891	21-11-1992
22	2/5(1)/95-V	24-03-1995	1029	15-04-1995
23	2/5(1)/91-V	12-10-1995	2856	28-10-1995
24	2/5(1)/91-V	27-03-1996	1241	20-04-1996
25	2/5(1)/95-V	23-12-1997	83	10-01-1998
26	2/5(1)/98-V	30-06-2000	1763	05-08-2000
27	2/5(1)/98-V	27-12-2000	34	13-01-2001
28	2/5(1)/98-V	24-1-2001	254	10-02-2001
29	2/5(1)/98-V	18-3-2004	804	28-3-2004
30	4/5/1-2004-V	22-6-2005	—	—
31	4/5/1-2004-V	31-1-2006	—	—

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 26 नवम्बर, 2007

का.आ. 3435.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में, आकाशवाणी महानिदेशालय (सूचना और प्रसारण मंत्रालय) के निम्नलिखित अधीनस्थ कार्यालयों, जिनके 80% से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है :-

1. आकाशवाणी, कटक
2. उपमहानिदेशक (पूर्वी क्षेत्र) का कार्यालय, आकाशवाणी, कोलकाता
3. उच्च शक्ति प्रेषित्र, खामपुर, दिल्ली
4. आकाशवाणी, मंगलूर

[फा. संख्या ई-11017/6/2007-हिंदी]

समय सिंह कटारिया, निदेशक (राजभाषा)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 26th November, 2007

S.O. 3435.—In pursuance of Sub-Rule(4) of Rule 10 of the Official Languages (use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following subordinate offices of DG:A.I.R. (Ministry of information & Broadcasting), more than 80% of the staff whereof have acquired the working knowledge of Hindi.

1. A.I.R., Cuttack
2. Office of Deputy Director General (East Zone) A.I.R., Kolkata
3. High Power Transmitter, Khampur, Delhi
4. A.I.R., Mangalore

[File No. E-11017/6/2007-Hindi]

S. S. KATARIA, Director (O.L.)

संचार और सूचना प्रौद्योगिकी मंत्रालय

(दूरसंचार विभाग)

(राजभाषा अनुभाग)

नई दिल्ली, 19 नवम्बर, 2007

का.आ. 3436.—केंद्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथा संशोधित 1987) के नियम 10(4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

मुख्य महाप्रबंधक दूरसंचार, हरियाणा परिमंडल, भा.सं.नि.लि., अम्बाला

1. अधिशासी अभियंता, भारत संचार निगम लिमिटेड, दूरसंचार सिविल मंडल, अम्बाला छावनी

2. सहायक अभियंता, भारत संचार निगम लिमिटेड, कुरुक्षेत्र
3. सहायक अभियंता, भारत संचार निगम लिमिटेड, करनाल
4. उप मंडल अभियंता (सिविल), भारत संचार निगम लिमिटेड, सोनीपत
5. उप मंडल अभियंता (सिविल), भारत संचार निगम लिमिटेड, सिविल सब-डिविजन-1, अम्बाला छावनी
6. उप मंडल, भारत संचार निगम लिमिटेड, उपमंडल सिविल नं.-2, अम्बाला छावनी

[सं. ई. 11016/1/2007-रा.भा. (पार्ट-1)]

बलराम शर्मा, संयुक्त सचिव (प्रशासन)

MINISTRY OF COMMUNICATIONS AND INFORMATION TECHNOLOGY

(Department of Telecommunications)

(O. L. Section)

New Delhi, the 19th November, 2007

S.O. 3436.—In pursuance of Rule 10 of 4 of the Official Language (use for Official Purposes of the Union) Rules, 1976 (as amended-1987), the Central Government hereby notifies the following Offices under the administrative control of Ministry of Communications and Information Technology, Department of Telecommunications where of more than 80 % of staff have acquired working knowledge of Hindi.

Chief General Manager (Telecom.), Haryana Circle, B. S. N. L., Ambala.

1. Executive Engineer, B.S.N.L., Telecom. Civil Circle, Ambala Cantt.
2. Assistant Engineer, B.S.N.L., Kurukshetra
3. Assistant Engineer, B.S.N.L., Karnal
4. Sub Divisional Engineer (Civil), B.S.N.L., Sonapat
5. Sub Divisional Engineer (Civil), B.S.N.L., Civil Sub Division-1, Ambala Cantt.
6. Sub Divisional, B.S.N.L., Sub Divisional Civil No. 2, Ambala Cantt.

[No. E. 11016/1/2007-O.L.(Part-1)]

BALRAM SHARMA, Jr. Secy. (Administration)

कृषि मंत्रालय

(कृषि अनुसंधान एवं शिक्षा विभाग)

नई दिल्ली, 22 नवम्बर, 2007

का.आ. 3437.—केंद्रीय सरकार, कृषि अनुसंधान एवं शिक्षा विभाग, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियमावली 1976 के नियम 10 उप नियम (4) के अनुसरण में राष्ट्रीय पादप जैव प्रौद्योगिकी अनुसंधान केन्द्र (भा.कृ.अ.प.) पूसा, नई दिल्ली को, जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

[फा. सं. 13-2/2002-हिंदी]

डॉ. के. छतवाल, अवर सचिव

MINISTRY OF AGRICULTURE**(Department of Agricultural Research and Education)**

New Delhi, the 22nd November, 2007

S.O. 3437.—In pursuance of Sub-Rule(4) of Rule 10 of the Official Language (use for official purpose of the Union) Rules 1976, the Central Government, Ministry of Agriculture, Department of Agricultural Research & Education hereby notifies National Research Centre On Plant Biotechnology, (ICAR) Pusa, New Delhi were more than 80% of staff have acquired the working knowledge of Hindi.

[F.No. 13-2/2002-Hindi]

D. K. CHHATWAL, Under Secy.

वस्त्र मंत्रालय

नई दिल्ली, 30 नवम्बर, 2007

का.आ. 3438.—केन्द्रीय रेशम बोर्ड संशोधन अधिनियम, 2006 की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा उपर्युक्त अधिनियम के प्रावधानों के अध्वधीन इस अधिसूचना की तारीख से तीन वर्ष की अवधि के लिए केन्द्रीय रेशम बोर्ड के सदस्य के रूप में कार्य करने के लिए निम्नलिखित व्यक्ति का नामांकन अधिसूचित करती है:

श्री दीपक दास, मुख्य लेखा नियंत्रक, इस अधिनियम की धारा
वस्त्र मंत्रालय, भारत सरकार, 4(3)(ख) के तहत केन्द्र
उद्योग भवन, नई दिल्ली सरकार द्वारा नामित

[फा. सं. 25012/56/99-रेशम]

भूपेन्द्र सिंह, संयुक्त सचिव

MINISTRY OF TEXTILES

New Delhi, the 30th November, 2007

S.O. 3438.—In exercise of powers conferred by sub-section (3) of Section 4 of the Central Silk Board Act. 1948, the Central Government hereby notifies the nomination of the following person to serve as member of the Central Silk Board for a period of three years from the date of this notification subject to the provisions of the said Act.

Shri Deepak Das, Nominated by the Central
Chief Controller of Accounts, Government under
Ministry of Textiles, Section 4(3)(b) of the Act.
Udyog Bhawan, New Delhi.

[F.No.25012/56/99-Silk]

BHUPENDRASINGH, Jt. Secy.

इस्पात मंत्रालय

नई दिल्ली, 27 नवम्बर, 2007

का.आ. 3439.—राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग नियम, 1976 (यथा संशोधित, 1987) के नियम-10 के उप नियम (4) के अनुसरण में केन्द्रीय सरकार एतद्वारा इस्पात मंत्रालय के प्रशासनिक नियंत्रणाधीन फ़ैरो स्क्रैप निगम लि. की बर्नपुर इकाई स्थित कार्यालय, जिनके 80 प्रतिशत से अधिक कर्मचारीवृन्द ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है

[सं. ई. 11011/9/2006-हिंदी (कार्यान्वयन)]

संजय मंगल, निदेशक

MINISTRY OF STEEL

New Delhi, the 27th November, 2007

S.O. 3439.—In pursuance of sub-rule(4) of Rule 10 of the Official Language (Use for official purpose of the Union) Rules, 1976 (as amended, 1987) the Central Government hereby notifies the Office of Ferro Scrap Nigam Limited, Barnpur unit under the administrative control of Ministry of Steel, where more than 80% staff have acquired working knowledge of Hindi.

[No. E.11011/9/2006-Hindi (Implementation)]

SANJAY MANGAL, Director

कोयला मंत्रालय

नई दिल्ली, 3 दिसम्बर, 2007

का.आ. 3440.—केंद्रीय सरकार, कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, कोयला मंत्रालय की अधिसूचना संख्यांक का.आ. 4921 जो भारत के राजपत्र, भाग 2 खंड 3 उप-खंड (ii) तारीख 23 दिसंबर, 2006 में प्रकाशित की गई थी, का संशोधन करती है, अर्थात:-

2. उपरोक्त अधिसूचना में-

- (i) अनुच्छेद 4 में, प्रविष्टि "1, कोल काउंसिल हाऊस स्ट्रीट" के स्थान पर "1, काउंसिल हाऊस स्ट्रीट" प्रविष्टि रखी जाएगी।
- (ii) अनुसूची के नीचे तालिका के अंतर्गत क्रम संख्या 2 में, ग्राम 'घोघरा' प्रविष्टि के स्थान पर 'घोघरा' प्रविष्टि रखी जाएगी।
- (iii) जहाँ-जहाँ भी ग्राम 'घोघरा' प्रविष्टि हुआ है वहाँ सभी जगह पर 'घोघरा' प्रविष्टि किया जाता है।
- (iv) तालिका के नीचे क्रम संख्या 3 पर; ग्राम कुडुमकेला (भाग) में अर्जित किये जाने वाले प्लॉट संख्या के उपशीर्षक में; प्रविष्टि "440 से 465, 446 (भाग)" के स्थान पर '440 से 465, 466(भाग)' प्रविष्टि रखी जाएगी।
- (v) सीमा वर्णन में, रेखा घ-इ-च-छ के अधीन प्रविष्टि 'पूर्वी सीमा प्लॉट के साथ-साथ संख्या 500, 514 से' के स्थान पर 'पूर्वी सीमा के साथ-साथ प्लॉट संख्या 500, 514 से' प्रविष्टि रखी जाएगी।

[मिसिल सं. 43015/8/2005-पीआरआईडब्ल्यू]

एम. शहाबुद्दीन, अवर सचिव

MINISTRY OF COAL

New Delhi, the 3rd December, 2007

S.O. 3440.—In exercise of the powers conferred by sub-section (1) of section 7 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957), the Central Government hereby amends the notification of the

Government of India Ministry of Coal vide number S.O. 4921 dated the 23rd December, 2006, namely:—

2. In the said notification—

- (i) in the said second paragraph, for the words "said that", the words "said land" shall be substituted;
- (ii) in the said third paragraph, for the words "Central Government here", the words "Central Government hereby" shall be substituted;
- (iii) in the schedule for the heading "Mand Raigrah Coalfield; District Raigrah (Chhatisgarh)", the following shall be substituted, namely:—
"Mand Raigrah Coalfields, District Raigarh (Chhattisgarh)
All Rights"
- (iv) in the Schedule, in the third sub-heading relating to plot numbers to be acquired in village Kudumkela (part), for the entry "and 183/1982", the word "and 183/1983" shall be substituted.

[File No. 43015/8/2005/PRIW]

M. SHAHABUDEEN, Under Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय
(स्वास्थ्य और परिवार कल्याण विभाग)

शुद्धिपत्र

नई दिल्ली, 22 नवम्बर, 2007

का. आ. 3441.—इस विभाग के दिनांक 21 सितम्बर, 2007 की अधिसूचना सं. यू. 12012/37/2000- एमई (पी -II) में इसकी अंतर्वस्तु में "छपे वर्धमान महावीर मेडिकल कालेज, नई दिल्ली के नाम को" वर्धमान महावीर मेडिकल कालेज एवं सफदरजंग अस्पताल, नई दिल्ली पढ़ा जाए। अधिसूचना की शेष अन्तर्वस्तु अपरिवर्तित रहेगी।

[सं. यू. 12012/37/2000- एमई (पी -II)]
एस. के. मिश्रा, अवर सचिव

MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Health and Family Welfare)

CORRIGENDUM

New Delhi, the 22nd November, 2007

S. O. 3441.—In this Department's Notification No. U. 12012/37/2000-ME(P. II) dated 21st September, 2007, the name "Vardhman Mahavir Medical College, New Delhi" appearing in its contents may be read as "Vardhman Mahavir Medical College & Safdarjung Hospital, New Delhi". Other contents of the Notification remain unchanged.

[No. U. 12012/37/2000-ME(P. II)]

S. K. MISHRA, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 13 मार्च, 2007

का. आ. 3422.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं:—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमणित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आईएस 15744: 2007 'सी' फ्रैम यांत्रिक प्रेस के कोणीय डिफ्लेक्शन - विशिष्टी		जून 2007
2.	आईएस 15745: 2007 स्ट्रेट साईडिड यांत्रिक प्रेस के डिफ्लेक्शन - विशिष्टी		जून 2007
3.	आईएस 15746: 2007 'सी' फ्रैम द्रवचालित प्रेस के कोणीय डिफ्लेक्शन - विशिष्टी		जून 2007
4.	आईएस 15747: 2007 स्ट्रेट साईडिड द्रवचालित प्रेस के कोणीय डिफ्लेक्शन - विशिष्टी		जून 2007

इन भारतीय मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीख, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध है।

[संदर्भ : पीजीडी/जी-3.5]

पी. सी. जोशी, वैज्ञानिक 'ई' एवं प्रमुख (पीजीडी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND
PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 13th March, 2007

S.O. 3442.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of

which are given in the Schedule here to annexed have been established on the date indicated against each:

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. & year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
1	2	3	4
1.	IS 15744:2007 Angular deflection for 'C' frame mechanical presses-Specification		June 2007
2.	IS 15745:2007 Deflection for straight sided mechanical press-Specification		June 2007
3.	IS 15746:2007 Angular deflection for 'C' frame hydraulic presses-Specification		June 2007
4.	IS 15747:2007 Angular Deflection for Straight Sided Hydraulic presses-Specification		June 2007

Copy of these Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: PGD/G-3.5]

P. C. JOSHI, Scientist 'E' & Head (PGD)

नई दिल्ली, 22 नवम्बर, 2007

का. आ. 3443:— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसारण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 11833: 1986	संशोधन संख्या 3, अगस्त 2007	1 जनवरी, 2008

इन संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों: अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, गुवाहाटी, हैदराबाद,

जयपुर, कानपुर, पटना, नागपुर, पूणे तथा निरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 22nd November, 2007

S.O. 3443:—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule here to annexed have been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 11833:1986	Amendment No. 3, August 2007	1 January, 2008

Copy of this amendment is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Secy 'F' & Head (Civil Engg.)

नई दिल्ली, 23 नवम्बर, 2007

का. आ. 3444:— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसारण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 4947: 2006 अग्नि शामकों में प्रयुक्त होने वाले गैस कार्ट्रिज-विशिष्ट (तीसरा पुनरीक्षण)	--	1 मई, 2007

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुरशाह जफर मार्ग, नई दिल्ली -110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा निरुवनन्तापुरम में बिक्री हेतु उपलब्ध है।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)
New Delhi, the 23rd November, 2007

S.O. 3444.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule here to annexed have been establishment on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Establishment	No. & year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
1.	IS 4947:2006 Gas cartridges for use in fire extinguishers—Specification (Third revision)	—	1 May, 2007

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Tiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Sc 'F' & Head (Civil Engg.)

नई दिल्ली, 30 नवम्बर, 2007

का. आ. 3445.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 3972(भाग 2/ अनुभाग 13):2007 कांच इनेमल माण्ड के परीक्षण की पद्धतियां भाग 2 परीक्षण पद्धतियां अनुभाग 13 टेडेपन से प्रतिरोधित (पहला पुनरीक्षण)	—	30 जून 2007

(1)	(2)	(3)	(4)
2.	आई एस 3972(भाग 2/ अनुभाग 14):2007 कांच इनेमल माण्ड के परीक्षण की पद्धतियां भाग 2 परीक्षण पद्धतियां अनुभाग 14 आसंजन से प्रतिरोधिता (पहला पुनरीक्षण)	—	30 जून 2007
3.	आई एस 9749:2007 कांच और सिरैमिक उद्योग के लिए पोटास फेल्डस्पार एवं सोडा फेल्डस्पार-विशिष्ट (पहला पुनरीक्षण)	—	30 जून 2007
4.	आई एस 15751:2007 सिरैमिक उद्योग के लिए कैलसाइट-विशिष्ट	—	30 जून 2007
5.	आई एस 15752:2007 सिरैमिक उद्योग के लिए सेरीसाइट-विशिष्ट	—	30 जून 2007

इन भारतीय मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली -110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा निरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सी एच डी 9/टी-3972(भाग 2/अनुभाग 13) और अन्य]

ई. देवेन्द्र, वैज्ञानिक एफ (रसायन)

New Delhi, the 30th November, 2007

S.O. 3445.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which given in the Schedule here to amendment has been establishment on the date indicated below :

SCHEDULE

Sl. No.	No. and title of Indian Standards Establishment	No. and year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 3972 (Part 2/ Sec 13):2007 Methods of test for vitreous enamel-ware Part 2 Test methods Section 13 Resistance to warp-age (first revision)	—	30 June 2007

(1)	(2)	(3)	(4)
2.	IS 3972 (Part 2/ Sec 14):2007 Methods of test for vitreous enamel-ware Part 2 Test methods Section 14 Resistance to adherence (first revision)	—	30 June 2007
3.	IS 9749:2007 Potash feldspar and soda feldspar for glass and ceramic Industry-Specification (first revision)	—	30 June 2007
4.	IS 15751:2007 Calcite for ceramic industry-Specification	—	30 June 2007
5.	IS 15752:2007 Calcite for ceramic industry-Specification	—	30 June 2007

Copies of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Tiruvananthapuram.

[Ref: CHD 9/T-3972(Pt.2/Sec 13) & others]

E. DEVENDAR, Scientist F. (Chemical)

नई दिल्ली, 30 नवम्बर, 2007

का. आ. 3446.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (को) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15793:2007 पर्यावरण, व्यावसायिक स्वास्थ्य एवं सुरक्षा विधि के अनुपालन का प्रबंधन-उत्तम रीतियों की अपेक्षाएँ	—	30 नवम्बर 2007

इन भारतीय मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली -110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा कार्यालयों शाखा : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध है।

[संदर्भ : सी एच डी 8/आई एस 15793]

ई. देवेन्द्र, वैज्ञानिक एफ (रसायन)

New Delhi, the 30th November, 2007

S.O. 3446.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. & year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
1.	IS 15793:2007 Managing Environment Occupational Health and Safety legal compliance-requirements of Good Practices		30 November 2007

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Tiruvananthapuram.

[Ref: CHD 8/IS 15793]

E. DEVENDAR, Scientist F. (Chemical)

नई दिल्ली, 3 दिसम्बर, 2007

का. आ. 3447.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं मानक (को) में संशोधित किया गया/किये गये हैं :

अनुसूची

क्रम संख्या	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
1.	आई एस 7312:1993 वेल्ड किए तथा जोड़ सहित इस्पात के धुली एसिटिलीन के गैस सिलिंडर-विशिष्ट (दूसरा पुनरीक्षण)	संशोधन नं. 3, फरवरी 2007	01 दिसम्बर 2007

इस संशोधन की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली - 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा निरुवनन्तापुरम में बिक्री हेतु उपलब्ध है।

[संदर्भ : एम. ई. डी./जी-2:1]

सी. के. वेदा, वैज्ञा. एफ एवं प्रमुख (यांत्रिक इंजीनियरिंग)

New Delhi, the 3rd December, 2007

S.O. 3447.—In pursuance of clause (b) of sub-rule (1) of Rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and year of The amendment	Date from which the amendment shall have effect
1.	IS 7312:1993 Welded and Seamless Steel Dissolved Acetylene Gas Cylinders (Second Revision)	Amendment No. 3 February 2007	01 December 2007

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Tiruvananthapuram.

[Ref: MED/G-2: 1]

C. K. VEDA, Sc. F. & Head (Mechanical Engineering)

नई दिल्ली, 3 दिसम्बर, 2007

का. आ. 3448.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद् द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
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(1)	(2)	(3)	(4)
1.	आईएस/आईएसओ 7919-2: 2001	आईएस 14773 (भाग 2): 2000/	31 अक्टूबर 2007

(1)	(2)	(3)	(4)
1.	यांत्रिक कंपन-घूर्णी शाफ्ट पर मापन द्वारा मशीन के कंपन का मूल्यांकन भाग 2: भूमि पर भाप की टरबाइन तथा 1500च/मि., 1800च/मि., 3000च/मि. तथा 3600च/मि. की सामान्य प्रचालन गति वाले 50 मेगावाट से अधिक के जनरेटर	आईएसओ 7919-2:1996 अप्रत्यागामी मशीनों का यांत्रिक कंपन-घूर्णी शाफ्ट पर मापन तथा मूल्यांकन के मानदंड भाग 2 : भूमि पर रखे जाने वाले बड़े भाप टरबाइन वाले जनरेटर सेट का अतिक्रमण	31 अक्टूबर 2007
2.	आईएस/आईएसओ 7919-5:2005 यांत्रिक कंपन-घूर्णी शाफ्ट पर मापन द्वारा मशीन के कंपन का मूल्यांकन भाग 5: द्रव चालित पावर उत्पादक और पम्पिंग संयंत्रों में मशीन सेट	आईएस 14773 (भाग 5): 2001/ आईएसओ 7919-2:1997 अव्युत्क्रमी मशीन का यांत्रिक कंपन-घूर्णी शाफ्ट पर मापन तथा मूल्यांकन कसौटी भाग 5: जल विद्युत जनित्र एवं पम्पिंग संयंत्र में मशीन सेट का अतिक्रमण	31 अक्टूबर 2007
3.	आईएस/आईएसओ 10816-2:2001 यांत्रिक कंपन-अघूर्णी हिस्सों पर मापन द्वारा मशीन के कंपन का मूल्यांकन भाग 2: भूमि पर भाप की टरबाइन तथा 1500च/मि., 1800च/मि., तथा 3000च/मि. की सामान्य प्रचालन गति वाले 50 मेगावाट से अधिक के जनरेटर	आईएस 14817 (भाग 2):2004/ आईएसओ 10816-2:1996 यांत्रिक कंपन-अघूर्णी हिस्सों पर मशीन कंपन का मूल्यांकन भाग 2 : 50 मेगावाट से अधिक बड़े भूमि आधारित भाप की टरबाइन जनरेटर का अतिक्रमण	31 अक्टूबर 2007

इस भारतीय मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों: नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा निरुवनन्तापुरम में बिक्री हेतु उपलब्ध है।

[संदर्भ : एम. ई. डी./जी-2:1]]

सी. के. वेदा, वैज्ञा. एफ एवं प्रमुख (यांत्रिक इंजीनियरिंग)

New Delhi, the 3rd December, 2007

S.O. 3448.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule here to annexed have been established on the date indicated against each :

SCHEDULE

Sl. No. and year the No. Indian Standards Established	No. and year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1) (2)	(3)	(4)
1. IS/ISO 7919-2:2001 Mechanical vibration-Evaluation of machine vibration by measurements on rotating shafts. Part 2 Land based steam turbines and generators in excess of 50 MW with normal operating speed of 1500 R/MIN, 1800 R/MIN, 3000 R/MIN and 3600 R/MIN	Superseding IS 14773 (Part 2): 2000/ISO 7919-2: 1996 Mechanical Vibration of Non-Reciprocating Machines-Measurements on Rotating Shafts and Evaluation Criteria. Part 2 Large Land-Based Steam Turbine Generator Sets	31 October 2007
2. IS/ISO 7919-5:2005 Mechanical vibration-Evaluation of machine vibration by measurements on rotating shafts. Part 5 Machine sets in hydraulic power generating and pumping plants	Superseding IS 14773 (Part 5): 2000/ISO 7919-5: 1997 Mechanical Vibration of Non-Reciprocating Machines-Measurements on Rotating Shafts and Evaluation Criteria. Part 5 Machine sets in hydraulic power generating and pumping plants	31 October 2007
3. IS/ISO 10816-2:2001 Mechanical vibration-Evaluation of machine vibration by measurements on rotating parts. Part 2 Land based steam turbines and generators in excess of 50 MW with normal operating speed of 1500 R/MIN, 1800 R/MIN, 3000 R/MIN and 3600 R/MIN	Superseding IS 14817 (Part 2): 2004/ISO 10816-2: 1996 Mechanical vibration-Evaluation of machines vibration by measurements on non-rotating parts. Part 2-Large Land based steam turbine generator sets in excess of 50 MW	31 October 2007

Copy of there Standard are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional offices : New Delhi Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Triuvananthapuram.

[Ref: MED/G-2:1]

C. K. VEDA, Sc.-F & Head (Technical Engineering)

शुद्धि पत्र

नई दिल्ली, 3 दिसम्बर, 2007

का. आ. 3449.—भारत के राजपत्र भाग II खंड 3, उपखंड (ii) में प्रकाशित उपभोक्ता मामले और सार्वजनिक वितरण मंत्रालय (उपभोक्ता मामले विभाग) भारतीय मानक ब्यूरो नई दिल्ली की अधिसूचना संख्या के टी ई डी/जी-16 में निम्नलिखित संशोधन किया जाता है :-

संदर्भ : कॉलम 3

का. आ. 376 दिनांक 4 फरवरी 2007 संख्या 6, पृष्ठ 737-739 दिनांक 02 फरवरी 2007 के लिए क्रम संख्या 1 से 8 कॉलम 3 को अंग्रेजी में छपे अनुसार पढ़ा जाये।

इस शुद्धिपत्र की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : टी ई डी/जी-16]

राकेश कुमार, वैज्ञानिक एफ एवं प्रमुख (टी ई डी)

CORRIGENDUM

New Delhi, the 3rd December, 2007

S.O. 3449.—In the Notification No. TED/IG-16 published in Part II-Section 3-Sub-Section (ii) of the Gazette of India by Ministry of Food and Consumer Affairs (Department of Consumer Affairs) and Bureau of Indian Standards, New Delhi, the following correction are made :

Ref: Column 3

S.O. 376 dated 4 Feb 2007 No. 6, Page 737-739 Dated 02 Feb 2007 for Sl No. 1 to 8 in col 3. English Version be read as the correct version instead of the Hindi Version.

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110002 and Regional offices. New Delhi Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Triuvananthapuram.

[Ref: TED/G-16]

RAKESH KUMAR, Scientist F & Head (Transport Engg)

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 12 नवम्बर, 2007

का. आ. 3450.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, चेन्नई के पंचाट (संदर्भ संख्या 22/07) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-11-2007 को प्राप्त हुआ था।

[सं. एल-12011/335 से 338/1999-आई.आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 12th November, 2007

S.O. 3450.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2007) of Central Government Industrial Tribunal-cum-Labour Court, Chennai as shown in the Annexure in the industrial dispute between the management of State Bank of India, and their workmen, received by the Central Government on 12-11-2007.

[No. L-12011/335 to 338/1999-IR(B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
CHENNAI**

Wednesday, the 16th October, 2007

PRESENT : K. Jayaraman, Presiding Officer**Industrial Dispute No. 22/2007**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of State Bank of India and their Workman)

BETWEEN

Sri B. Rengaraj : I Party/Petitioner
S/o Balaguru,
Vaithur Village Post
Pudukottai

Vs.

The Branch Manager : II Party/Respondent
State Bank of India
Zonal Office
Thiruchirapalli-620008.

APPEARANCE:

For the Petitioner : None
For the Management : K.S. Sundar &
P. Thiagarajan Advocates

AWARD

The Central Government, Ministry of Labour vide its

Order No. L-12011/335 to 338/99-IR(B-1) dated 12-3-07 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of the management of State Bank of India, Chennai in terminating the services of Sri B. Rangaraj, Temporary Messenger is legal and justified ? If not, what relief he is entitled to?”

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 22/2007 and issued notices to both sides. After that the petitioner appeared for the first hearing. He has not appeared for the subsequent hearings and he was set ex-parte. On the other hand, the Respondent appeared through his advocate and filed their memo of objection.

3. The allegations in the memo of objection are briefly as follows :

Though notice were served for the Petitioner/I Party, he has not appeared before this Tribunal to substantiate his claim. The petitioner failed and neglected to file the claim statement before this Tribunal and abandoned the reference made to this Tribunal. Since the petitioner failed and neglected to participate in the proceedings before this Tribunal, the petitioner's claim should be rejected in-limni. Hence, he prays to dismiss the claim made by the petitioner.

The point of determination is :

- (i) “Whether the action of termination against the petitioner, Sri B. Rengaraj, Temporary Messenger in the Respondent Bank is legal and justified ?
- (ii) To what relief, he is entitled to ?”

Point No. (i) & (ii)

4. As I already stated that the notices were serviced to the petitioner and though he appeared for the first hearing, he has not appeared for the subsequent hearings and has not filed any claim statement nor appeared before this Court to substantiate his claim. Subsequently, the petitioner was called absent and set ex-parte. Since the burden of proving that the petitioner is a temporary messenger and that he is entitled to the benefits of the I.D. Act is upon the petitioner but the petitioner has not appeared before this Tribunal to substantiate his claim. Further, there is no proof or evidence that the petitioner is entitled to the benefits of the I.D. Act and therefore I am not inclined to hold that he is entitled to the benefits of the I.D. Act and the alleged termination of the petitioner is illegal.

4. Therefore find Point No. (i) against the petitioner and I also find in Point No. (ii) that the petitioner is not entitled to any relief as claimed by him.

5. Thus, the reference is answered accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 16th October, 2007.)

K. JAYARAMAN, Presiding Officer

Witness Examined :-

For the I Party/Petitioner : None

For the II Party/Management : None

Documents Marked :-

From the Petitioner's side

Ex. No.	Date	Description
	Nil	

From the Management side :

Ex. No.	Date	Description
	Nil	

नई दिल्ली, 13 नवम्बर, 2007

का. आ. 3451.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्दन रेलवे के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण-II, नई दिल्ली के पंचाट (संदर्भ संख्या 22/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2007 को प्राप्त हुआ था।

[सं. एल-41012/114/2004-आई. आर.(बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 13th November, 2007

S.O. 3451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 22/2005) of Central Government Industrial Tribunal-cum-Labour Court-II, New Delhi, as shown in the Annexure in the industrial dispute between the management of Northern Railways, and their workmen, received by the Central Government on 13-11-2007.

[No. L-41012/114/2004-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE**BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI**

Presiding Officer: R. N. Rai.

I.D. No. 22/2005

In the Matter of :—

Shri Harender Kumar Sharma,

S/o. Shri Vidyanand,
R/o. A-191, Sector-9,
Vijay Nagar, U.P.,
Ghaziabad (U.P.)

VERSUS

1. Union of India,
Through The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divisional Railway Manager,
Northern Railway,
Delhi Division near New Delhi Rly. Stn.,
New Delhi.

3. The Asstt. Controller of Stores,
Northern Railway,
Railway Station, Tuglakabad,
New Delhi.

AWARD

The Ministry of Labour by its letter No. L-41012/114/2004- IR (B-I) Central Government Dt. 11-03-2005 has referred the following point for adjudication.

The point runs as hereunder :—

"Whether the action of the DRM, Northern Railway, New Delhi Division, New Delhi Rly. Station, New Delhi/Asstt. Controller of Stores, N. Rly., Station Tuglakabad, New Delhi not to re-engage/regularize service of Shri Harender Kumar Sharma, Casual Khalasi w.e.f. April, 1984 is just, valid and legal? If not to what relief the workman is entitled and what directions are necessary in the matter."

The workman applicant has filed claim statement. In the claim statement it has been stated that the workman was initially engaged as Casual Khalasi under Asstt. Controller of Stores (DSL), Northern Railway, Tuglakabad of Delhi Division on 15-03-1983 on casual basis against the sanction obtained from competent authority. The workman applicant was engaged on 15-03-1983 along with 14 other persons as per Annexure-I, applicant list of casual labour during the month of March, 1983 issued Asstt. Controller of Shed (Diesel) the applicant was working 30 days on the said month Annexure A-1. He was again engaged in the same year June and onward for 60 days, letter issued by Asstt. Controller of Stores (Diesel), Tuglakabad as Annexure A-2 and the applicant was again engaged next year i.e. June, 1984 onwards for 90 days Annexure A-3. The workman applicant was working as casual labour total 180 days as per detailed furnished by Asstt. Controller of Stores (Diesel), Northern Railway, Tuglakabad. In his letter No. 6-S/DSL/TKD/CL dated 14-05-2000 Annexure A-4.

That the terms of employment of casual labour are contained in Chapter 25 and 23 of Indian Railway Establishment Manual and according to which on completion of 120 days working, casual labour acquired the status of a temporary Railway servant and became entitled to all the rights and benefits of a temporary Railway servant as contained in Chapters of the said Manual. These provisions come up for consideration before the Hon'ble Supreme Court of India. In the case of Ram Kumar and others Vs. Union of India and others—1989 II LLJ 72 and were approved and applied a Railway case. On acquisition of such temporary status the workman relies that status of his services could not be terminated/retrrenched without notice and without payment of retrrenchment compensation and without observing principle of last come first go a Section 25G of the Act.

That the Railway Board in its circular letter No.E(NG) 11-80/CL dated 21-10-1980 and reproduced in Northern

Railway P.S. No.7677 regarding casual labour provided that amongst other things, (when casual labour is discontinued and employed later when work is available such gaps in the service will not count as breaks for the purpose of breaking of continuous service of 120 days or 180 days as the case may be).

That as per Para 179(XIII)(C) of the Indian Railway Establishment Manual, a register should be maintained by all Division concerned to indicate the name of casual labourers, substitutes and temporary workmen who have rendered 6 months service either continuous or in broken period, for the purpose of future employment as casual workman and also as regular employees provided they are eligible for regular employment. It is submitted that condition of 6 months has been reduced to 4 months.

That the workman was engaged along with other 14 persons and was also disengaged along with 14 persons and the name of all the 14 persons with applicant was entered to the register after completion of work/ section. It is relevant to mention here that at the time of disengagement of the applicant and other 14 persons the management gave assurance that whenever there will be work they will be re-engaged and informed.

That recently the workman comes to know that the management reengaged all the 14 similarly situated persons who were disengaged along with the workman and have also been regularized. The names of some of the persons are as under:

1. Sh. Chetan Sharma S/o. Sher Nath Shrama
2. Sh. Ved Prakash S/o. Sh. Chandgi Ram
3. Sh. Makoo Lal S/o. Sh. Sukh Lal
4. Sh. Trilok Nath, S/o. Sh. Kashi Nath
5. Sh. Surya Naryan Gore S/o. Sh. Vasudev Gore
6. Sh. AchaI Chand, S/o. Sh. Net Ram
7. Sh. Pritam Singh S/o. Shanke Lal
8. Sh. Rajender Kumar S/o. Shri Matatan
9. Sh. Dhan Pal S/o. Sh. Jai Ram
10. Sh. Pooran Chand, S/o. Shri Ram Lal
11. Sh. Surinder Kumar S/o. Sh. Roshan Lal
12. Sh. Ashok Kumar S/o. Sh. Surjan Ram

That the workman continued to visit the office of the management several times for finding out whether there was any vacancy for his engagement but every time he was told that he should keep on. So visiting and that wherever there was any vacancy he could be suitably informed of written communication.

That it is relevant to mention here that the workman made representation in the office of the DRM, Delhi Division i.e. to the Sr. DPO vide dated 21-12-2002 dated 24-12-2001 and also made representation to the General Manager, Northern Railway, New Delhi but till date no reply has been received by the workman. That after waiting for such communications for considerable period, the workman/applicant raised an industrial dispute dated 31-07-2002 before the ALC(C), New Delhi the Conciliation Officer.

The management has filed written statement. In the written statement it has been stated that the workman does not come with clean hands before this Hon'ble Tribunal and suppressed the material facts and hence the present statement of claim of workman is liable to be dismissed on this very ground alone.

That the present statement of claim of workman is bad for misjoinder. It is pertinent to mention here that the Respondent No.3 received instructions from Railway Board for absorption of the casual labour into temporary labour after verification by their circular No.E(NG)II-83/RR17(CI) dated 01.06.1983 (PS-8347) further the same was circulated by GM vide PS No.8347. That after screening of service card of respective casual labour, after verification of service card bearing No.167211 of workman by Dy. Controller of Stores (presently the designation of Dy. Chief Material Manager by "Dy. CMM, SSB, N. Delhi). Dy. CMM found that the said service card of workman was bogus vide letter No.220-E(37) PL X dated 07-04-1984.

It is further pertinent to mention here that the workman failed to implead Dy. CMM(SSB), N.R., New Delhi as a necessary in the array respondent/management and therefore, the statement of claim of workman is liable to be rejected at the threshold.

The photocopies of the letter dated 04-04-1984 and 07-04-1984 are annexed herewith as Annexure A & B respectively.

That the present statement of claim of workman is liable to be rejected outrightly U/O 7R-II R/WS-151 CPC as no cause of action have arisen in favour of the workman since the workman got himself re-engaged in the office of respondent No.3 on the basis of his bogus service card bearing no.167211.

That as per the circular of Railway Board, Respondent No.3 instructed to reengage a casual labour who had already worked with Railway earlier and on the basis of the false statement of workman made before Hon'ble Asstt. Labour Commissioner(C), New Delhi and bogus service card bearing No.167211, the workman was reengaged as Khalasi on casual basis. It is pertinent to mention here that as para No.1 of demand notice, the workman submitted before ALC, New Delhi that he was initially engaged as casual Khalasi at ASR Depot, New Delhi and was subsequently reengaged on 15-03-1983 as Khalasi on casual basis against the sanctioned obtained from competent authority under Respondent No.3 but in fact there is no such place i.e. ASR Depot, New Delhi existed at that time nor till date and the Respondent No.3 replied the said demand notice of workman on 09-09-2003 and since the reengagement of workman was made on the basis of bogus service card No.167211, the reengagement of workman since 15-03-1983 (30 days) 20-06-1983 (60 days) & 05-11-1983 (90 days) was the fraud committed by workman and thus, the present statement of claim is liable to be rejected outrightly.

That the workman in his demand notice before Hon'ble ALC(C) stated that in para No. 1 was initially as casual labour Khalasi at ASR Depot, New Delhi and was subsequently reengaged on 15-03-1986, as Khalasi on casual basis against the sanctioned obtained from competent authority under

Respondent No.3 and in para No. 1 before this Hon'ble Tribunal stated that the workman/applicant was initially engaged as casual Khalasi under the Respondent No.3 and therefore, both the aforesaid statement contradictory and self explanatory and hence the present statement of claim is liable to be reflected on this ground also.

That the workman was reengaged on 15-03-1983 on the basis of bogus service card bearing No.167211 and on that basis, he (workman) claiming for suitable gainful employment and full back wages and the same is not sustainable in the eyes of law.

It is pertinent to mention here that it is settled principle of law that two wrong acts cannot be right act and no one will take the advantage of his own wrong and on this precedent the present statement of claim is liable to be dismissed with exemplary costs.

That since the reengagement of workman was made by Respondent No.3 on 15-03-1983 on the basis of the bogus service card bearing No.167211 submitted by the workman, neither the observation Supreme Court in case of Ram Kumar Vs. Union of India and ors. 1989 ILLJ 72 nor para 179 13-C of Indian Railway establishment Manual are applicable in the present case and therefore the same is liable to be rejected out rightly.

It is pertinent to mention here that since the workman by bogus service card bearing No.167211 and got reengaged under Respondent No.3 on 15-03-1983. The workman committed fraud cheating in personification and is liable to be prosecuted under various provisions of IPC and respondents to reserve their right to take appropriate legal action against him (workman).

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workman that in view of P.S. 7677 regarding casual labour in Northern Railway, in case work is not available, a casual labour is discontinued but he may be engaged when work is available and the gaps in service will not count breaks for the counting of continuous period of 90 days/120days.

It was further submitted that 14 persons disengaged along with the workman have been reengaged. They were similarly situated. Their service have also been regularized. The management did not listen to the request of the workman, so he has filed this case.

It was submitted from the side of the management that the Service Card of this workman was found bogus. Respondent No.3 received instructions from the Railway Board for absorption of the casual labour in to temporary labour after verification by their circular dated 01-06-1983. After screening of the Service Card of the workman his Card bearing No.167311 was found bogus.

It was further submitted that the workman has worked for 90 days since 15-03-1983 to 20-06-1983 and 90 days up to 15-11-1984. The workman was not doubt re-engaged on 15-03-1983 on the basis of bogus Service Card bearing No. 267211.

The management has filed photocopies of the inquiry made regarding Card No.267211. On 09-04-1984 after screening of the Card, the Cards of Sh. Harender Kumar and Ved Prakash were found bogus. The workman has not denied these two photocopies, so these photocopies are admissible in evidence

The workman has filed photocopy of order dated 08-11-1982 and it has been mentioned therein that the workman has worked from 15-04-1978 to 20-08-1978 i.e. 123 days and has been discharged for want of vacancy. This is the report of the Inspector of Works (IOW) without any seal and signature of the Inspector of Works. There is only typed "Sd/-" at the place of seal and signature of the competent authority. Any one can get this type of letter typed from anywhere and can type "Sd/-" at the place of seal and signature of the competent authority, so this certificate cannot be relied upon and it appears forged.

The case of the workman in the claim is that he was initially engaged as casual Khalasi under Assistant Controller of Stores (DSL), Northern Railway, Tuglakabad, Delhi Division on 15-03-1983 on casual basis against the sanction obtained from the competent authority. The workman applicant was again engaged in the same year in June and onwards for 90 days and letter was issued to him by Assistant Controller of Stores. He was again engaged next year in June, 1984 onwards for 90 days. The workman has filed all these documents Annexure 1 to 3. These documents show that the workman was engaged for the period from 15-03-1983 for 90 days and again in June, 1984 for 90 days. The workman has no doubt completed 180 days in between March, 1983 to June 1984. The workman has filed photocopy certificate B - 49 regarding his work from 15-04-1978 to 20-08-1978 for 123 days. The workman has not taken such case in his claim statement regarding his initial engagement in 1978. He has filed documents regarding his engagement in the year 1983 and 1984 and has not even given any evidence regarding his engagement in the year 1978, so B - 49; certificate issued on 08-11-1982 becomes doubtful as it does not relate to the period stated in claim.

The management has filed the report of the Screening Authority dated 04-04-1984 and 09-04-1984. The Service Card of the workman was found bogus in 1984 and he has not been given any engagement thereafter till today. When his Service Card was declared bogus it was necessary for him to make representation against the same but the workman did not take any step. It implies that the Service Card was really bogus and he did not make any representation and filed this case directly. He has concealed this fact also. He should have stated in his claim petition and he should also have stated in his claim that he was initially engaged in the year 1978.

The workman has also filed certificate regarding sanction of his work. He has been shown to work for 30

days from 15-03-1983, 60 days from 20-06-1983 & 90 days from 05-01-1984, so by the documents filed by the workman itself, the workman has worked for 90 days in 1983 and 90 days in 1984. He worked in the Railway Department as casual labour up to 04-04-1984 and after inquiry on 09-04-1984 his Service Card was found bogus and he has not been given any other re-engagement after 05-04-1984. There is no explanation as to what the workman did from 05-04-1984 till 2005 when he made representation for regularization and absorption after a long gap of 21 years.

It was submitted from the side of the management that there is no explanation of delay. Not to speak of plausible or satisfactory explanation. There is no explanation at all what prevented the workman to approach this forum after a long period of 21 years. It is settled law that stale claim made after an inordinate and unexplained period could not be entertained.

My attention was drawn to 2005 (5) SCC page 91 paras 12 and 13. The Hon'ble Apex Court has held that long delay impedes the maintenance of the records. Belated claim should not be considered.

It has been held in (2001) 6 SCC 222 as under:

"Law does not prescribe any time limit for the appropriate government to exercise its powers under Section 10 of the Act. It is not that this power can be exercised at any point of time and to revive matters which had since been settled. Power is to be exercised reasonably and in a rational manner. There appears to us to be no rational basis on which the Central Government has exercised powers in this case after a lapse of about seven years of the order dismissing the respondent from service."

In the instant case reference has been made after a delay of long 21 years. Limitation Act is not applicable in ID cases but stale cases should not be considered. Delay in the instant case is inordinate and relief can be rejected on the ground of delay alone.

In the instant case the workman was not re-engaged after 05-04-1984 and there is no explanation from the workman that what he did from 05-04-1984 till 2005 when he claimed for regularization/absorption after a long gap of 21 years.

The management has filed photocopies of Screening Report which establish the fact that the Service Card of the workman was found bogus. This finding has not been repudiated by the workman for 21 years. It is not challenged in this reference also. His Service Card was found bogus on 04-04-1984 and the findings still holds good. The workman has filed this case after an extraordinary gap of 21 years. The certificate filed by the workman of 1982 is forged as it has not been mentioned in his claim. He is not entitled to get any relief as prayed for.

The reference is replied thus:

The action of the DRM, Northern Railway, New Delhi Division, New Delhi Rly. Station, New Delhi/ Asstt. Controller of Stores, N. Rly., Station, Tuglakabad, New Delhi not to re-engage/regularize service of Shri Harender Kumar Sharma. Casual Khalasi w.e.f. April, 1984 is just,

valid and legal. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 06-11-2007

R.N. RAI, Presiding Officer

नई दिल्ली, 14 नवम्बर, 2007

का. आ. 3452.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार नार्थ ईस्टर्न रेलवे के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 37/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 14-11-2007 को प्राप्त हुआ था।

[सं. एल-41012/14/2007-आई. आर. (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 14th November, 2007

S.O. 3452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 37/2007) of Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure in the industrial dispute between the management of North Eastern Railway, and their workmen, received by the Central Government on 14-11-2007.

[No. L-41012/14/2007-IR(B-I)]

AJAY KUMAR, Desk Officer

**ANNEXURE
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT
LUCKNOW**

**PRESENT
SHRIKANT SHUKLA, PRESIDING OFFICER**

I. D. 37/07

Ref. No. L-41012/14/09-IR(B-I) Dt. 27-08-07

Between

Mohd. Yasin S/o Mohd. Saleem
R/o Village Mirdaha,
Post Sonapur, Chapra

And

The Divisional Railway Manager
North Eastern Railway
Ashok Marg,
Lucknow

The Loco Foreman,
Loco Shed Mailani
North East Railway, Mailani
Lakhimpur Kheri District
Mailani

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute No. L-41012/14/2007/IR(B-I) Dated 27-8-07 for adjudication to the Presiding officer, CGIT-cum-Labour Court, Lucknow;

"Whether the action of the management of NE, Railway Mailani Distt. Lakhimpur Kheri, Lucknow/Gorakhpur in removing Mohd. Yasin S/o Mohd. Salim from service w. e. f. 13-7-94 after doing work as casual labour w. e. f. 20-7-76 to 12-7-94. is legal and justified? If not to what relief the concerned workman is entitled?"

The Government endorsed the copy of the reference order to the parties with the clear direction that parties raising the dispute shall file a statement of claim complete with relevant documents list or reliance and witnesses with Tribunal within 15 days of the receipt of the order of reference and also forward a copy of such statement to each one of the opposite parties involved in this dispute under Rule 10B of the I. D. Act, 1947.

Though the reference order is received in this court on 10-9-07 but no statement of claim forwarded though office of the court write till 28-9-07. The court ordered on 28-9-07 to issue notices to the parties by registered post, fixing 19-10-07 for filing statement of claim and 2-11-07 for filing of written statement. Notices were sent by registered post on 16-10-07 but none appeared. The notice sent to the worker Mohd. Yasin received back with the remark that addressee left without address. Since the worker is not traceable therefore there is no alternate then to pass no claim award.

Lucknow 2-11-07

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 15 नवम्बर, 2007

क्र. आ. 3453:—समान पारिश्रमिक अधिनियम, 1976 (1976 का 25) के खण्ड 6 के उप-खण्ड (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एवं दिनांक 22-12-1998 की श्रम मंत्रालय, भारत सरकार की अधिसूचना सां. आ. 52 (दिनांक 2-1-1999 को भारत के राजपत्र के भाग-II, खण्ड-3 के उप-खण्ड(ii) में प्रकाशित) का अधिक्रमण करते हुए केन्द्र सरकार एतद्वारा निम्नलिखित सदस्यों को शामिल करके केन्द्रीय सलाहकार समिति का गठन करती है, अर्थात:-

सलाहकार समिति

- | | |
|--|------------|
| 1. केन्द्रीय श्रम और रोजगार मंत्री | अध्यक्ष |
| 2. सचिव, श्रम और रोजगार मंत्रालय | पदेन-सदस्य |
| 3. संयुक्त सचिव, श्रम और रोजगार मंत्रालय
(प्रभारी बाल एवं महिला श्रम) | -वही- |
| 4. संयुक्त सचिव, महिला एवं बाल विकास मंत्रालय | -वही- |
| 5. सलाहकार, श्रम और रोजगार प्रभाग, योजना आयोग | -वही- |
| 6. सचिव, श्रम विभाग, आन्ध्र प्रदेश सरकार, हैदराबाद | -वही- |
| 7. सचिव, श्रम विभाग, उत्तर प्रदेश सरकार, लखनऊ | -वही- |
| 8. सचिव, श्रम विभाग, राष्ट्रीय राजधानी क्षेत्र दिल्ली, दिल्ली | -वही- |
| 9. सदस्य सचिव, महिला राष्ट्रीय आयोग, 4, दीन दयाल
उपाध्याय, मार्ग, नई दिल्ली | -वही- |

10. श्री विश्वामित्र बहल,
मैसर्स ऑटो स्टील 70, शिवाजी मार्ग, औद्योगिक
क्षेत्र, नई दिल्ली गैर-सरकारी सदस्य
11. श्रीमती वैजयन्ती पंडित, सचिव, इंडियन मर्चेन्ट चैम्बर,
एलएनएम आईएमसी बिल्डिंग, पीबी
11211 चर्चगेट, मुंबई- 400020 -वही-
12. श्रीमती रेनुका देवी बर्कतअली, प्रेसीडेंट,
आईएनटीयूसी असम ब्रांच, के. सी. सेन रोड,
पल्टन बाजार, गोवाहाटी (असम) -वही-
13. श्रीमती गीता जयंत गोखले,
101-ए रामनिवास, जी. बी. इंदुलकर मार्ग,
विलेपार्ले (पूर्व), मुंबई-400057 -वही-
14. सुश्री जया अरूणाचलम,
प्रेसीडेंट, वर्किंग वूमन फोरम (इंडिया),
55, भीमसेन गार्डन रोड, माईलापुर,
चेन्नई- 600004 -वही-
15. सुश्री ज्योत्सना सिवारंमाया,
इंस्टिट्यूट ऑफ सोशल स्टडीज ट्रस्ट,
इंडिया हैबोटेड सेन्टर, अपर ग्रांड स्टोर,
कोर 6ए, लोदी रोड, नई दिल्ली -वही-
16. सुश्री पम्मी बजाज,
5-9, पांडव नगर, स्ट्रीट नं. 10,
सामसपुर रोड, नई दिल्ली-91 -वही-
17. श्रीमती श्यामला भण्डारी,
एडवोकेट एवं नोटरी, पहली मंजिल,
वेंकट रमन आरकेड कुंदपुर, उदपी,
जिला- 576201 कर्नाटक -वही-
18. श्रीमती शैल सिंह,
474/156, ब्रह्म नगर, फेज-II/
त्रिवेणी नगर, डालीगंज क्रोसिंग,
सीतापुर रोड, लखनऊ (उ. प्र.) -वही-
19. श्रीमती गंगा ठाकुर पोटाई,
केयर/आफें श्री जीवन लाल ठाकुर,
एमआईजी- 201-202, विजेता कॉम्प्लेक्स,
न्यू राजेन्द्र नगर, रायपुर (छत्तीसगढ़) -वही-
20. श्रीमती कृष्णा तोरथ,
संसद सदस्य (लोक सभा) -वही-
21. प्रो. अल्का बलराम क्षत्रीय,
संसद सदस्य (राज्य सभा) -वही-

समिति के गैर-सरकारी सदस्यों का कार्यकाल 2 वर्ष का होगा।

[संख्या ए-42011/25/97- सीएण्डडब्ल्यूएल-II]

हरजोत कौर, निदेशक

New Delhi, the 15th November, 2007

S.O. 3453.—In exercise of the powers conferred by Sub-Section (1) of the Section 6 of the Equal Remuneration Act, 1976 (25 of 1976) and in supersession of notification of the Government of India in the Ministry of Labour No. S. O. 52 dated 22-12-1998 (published in the Gazette of India, Part-II, Section-3, Sub-Section (ii) on the

2-1-1999) the Central Government hereby constitutes the Central Advisory Committee, consisting of the following members, namely:—

Advisory Committee

- | | |
|--|---------------------|
| 1. Union Minister for Labour and Employment | Chairperson |
| 2. Secretary, Ministry of Labour and Employment | Ex-Officio Member |
| 3. Joint Secretary, Ministry of Labour and Employment (Incharge of Child and Women Labour) | -do- |
| 4. Joint Secretary, Ministry of Women and Child Development | -do- |
| 5. Adviser, Labour and Employment Division, Planning Commission | -do- |
| 6. Secretary, Labour Department Government of Andhra Pradesh, Hyderabad | -do- |
| 7. Secretary, Labour Department Government of Uttar Pradesh, Luknow | -do- |
| 8. Secretary, Labour Department, National Capital Territory of Delhi, Delhi | -do- |
| 9. Member Secretary, National Commission for Women, 4, Deen Dayal Upadhaya Marg, New Delhi | -do- |
| 10. Shri Vishwa Mitra Bahl, M/s. Auto Steel 70 Shivaji Marg, Industrial Area, N. Delhi | Non-Official Member |
| 11. Mrs. Vaijyanti Pandit, Secretary, Indian Merchants' Chamber LNMIMC Building, PB 11211 Churchgate, Mumbai-400 020 | -do- |
| 12. Mrs. Renukadevi Barkatali, President, INTUC, Assam Branch, K. C. Sen Road, Paltan Bazar, Guwahati (Assam) | -do- |
| 13. Smt. Geeta Jayant Gokhale, 101-A, RamNiwas, G.B. Indulkar Marg, Villeparle(East), Mumbai-400 057 | -do- |
| 14. Ms. Jaya Arunachalam, President, Working Women's forum (India), 55, Bhimasena Garden Road, Mylapore, Chennai-600 004 | -do- |
| 15. Ms. Jyotsna Sivaramayya, Institute of Social Studies Trust, India Habitat Centre, Upper Ground Floor, Core 6A, Lodhi Road, New Delhi | -do- |
| 16. Ms. Pammi Bajaj, S-9, Pandav Nagar, Street No. 10, Samaspur Raod, New Delhi-91 | -do- |
| 17. Smt. Shayamala Bhandary, Advocate & Notary, 1st Floor Venkata Ramana Arcade, Kundapur, Udupi District-576 201, Kamataka | -do- |

- | | |
|---|----------------------|
| 18. Smt. Shail Singh, 474/156, Brahm Nagar, Phase-II Triveni Nagar, Daleeganj Crossing, Sitapur Road, Luchnow (UP) | Non- Official Member |
| 19. Smt. Ganga Thakur Potai C/o Shri Jeevan Lal Thakur MIG-201-202, Vijeta Complex, New Rajendra Nagar, Raipur, (Chattisgarh) | -do- |
| 20. Smt. Krishna Tirath Member of Parliament (Lok Sabha) | -do- |
| 21. Prof. Alka Balram Kshatriya Member of Parliament (Rajya Sabha) | -do- |

The term of office of non-official member(s) of the Committee shall be two years.

[No. A.42011/25/97-C&WL.II]
HARJOT KAUR, Director

नई दिल्ली, 15 नवम्बर, 2007

का. आ. 3454.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मिलिट्री फॉर्म के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण श्रम न्यायालय बेंगलूर के पंचाट (संदर्भ संख्या 51/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-11-2007 को प्राप्त हुआ था।

[सं. एल-14012/25/97-आई आर.(डी. यू.)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 15th November, 2007

S.O. 3454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.51/98) of Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the industrial dispute between the employers in relation to the management of Military Farm and their workman, which was received by the Central Government on 15-11-2007.

[No. L-14012/25/97-IR (DU)]
SURENDRA SINGH, Desk Officer
ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE-560 022

Dated 30th October, 2007

PRESENT

Shri A. R. SHIDDIQUI, Presiding Officer
C.R. No.51/1998

I Party

Shri Shivanaja,
Bommennahalli,
Tayagatur Post,
Gubbi Taluk,
Tumkur District.

II Party

The Farm Manager,
Military Farm,
Hebbal,
Bangalore

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this disputes *vide* order No. L-14012/25/97/IR(DU) dated 28th May, 1998 for adjudication on the following schedule:

SCHEDULE

"Whether the action of the management of Military farm, Bangalore is justified in terminating the services of Shri Shivananjan. If so, to what relief Shri Shivananjan is entitled for?"

2. The case of the first party workman as made out in the claim statement in Sutshell is that he joined the services of the management on 1-6-1983 as Govala to work in the farm of the management. He was also working with the management earlier to that date and was rendering his services sincerely and honestly. However, for no good reasons and without any notice to him his services were terminated on 26-10-1988 as he requested the management to regularize his services. Then, he filed a complaint before the ALC challenging his termination order and after the management appeared, the matter was settled between him and the management before the conciliation officer by way of settlement dated 4-8-1989. As per the settlement the management reinstated him on 5-8-1989 and after he worked for about a period of one month once again for no good reasons his services were terminated. He again approached the ALC and once again a settlement was arrived on 19-7-1995 with an advise to the management to implement the aforesaid settlement dated 4-8-1989. Thereupon, the management reinstated the first party and allowed him to work only for a period of 3 months and then terminated his services. The first party once again approached the ALC and there was again a settlement dated 1-1-1996 and the first party was taken back in service but his services were being terminated quite often. He was taken back in service as per the settlement dated 1-1-1996 on 2-1-1996 and again on 23-5-1996 his services were terminated. Then, once again the first party approached the ALC on 23-9-1996 and at the result of the conciliation proceedings having been ended in failure, the present reference is made to this tribunal. Therefore, the first party contended that the management ought to have regularised his services w.e.f. 1-6-1983 and in not doing so the management has violated the fundamental rights of the first party and acted against the principles of natural justice. He contended that the action of the management in terminating his services was intentional just to harass the first party and therefore, the order of the termination passed against him is unconstitutional, arbitrary in nature and is opposed to the principles of natural justice. He requested this tribunal to reinstate him in service with all consequential benefits, continuity of service and full back wages from the date of his termination order dated 26-10-1988 till the date of his reinstatement.

3. The management by way of its counter statement, while, denying the claim of the first party that he joined the services of the management on 1-6-1983, further contended that the first party was appointed as a daily rated casual labourer as and when required and his allegation that his services were terminated on 26-10-1988 are false. The management contended that on 26-10-1988 the first party him-

self left the job and remained absent from the work without any intimation to the management and then approached the Labour Commissioner before whom the management agreed to re-engage the first party as a daily rated labourer w.e.f. 05-08-1989. The first party then joined the services as a casual labourer and worked for 24 days in the month of August 1989, 22 days in September 1989 and 17 days in October 1989 and then remained absent from the work on his own. He came back to the management to work on 02-11-1989 and got his 17 days wages. However, he once again remained absent from duty on his own and never reported for duty. The management then contended that on 15-06-1995 after a lapse of 5 years and 8 months the first party again approached the ALC alleging that his services were terminated during the year 1989. The fact that he approached the ALC after a lapse of 5 years and 8 months period, will suggest that the first party himself had voluntarily stopped coming to the work and that there was no termination of his services by the management. His further contention that his services were terminated once again on 23-05-1996 is also false and denied. At Para 2, the management contended that it is not an Industry and it is the part of the defence department established to supply the farm products to the defense establishments and therefore, the reference itself, is not maintainable. The management also contended that the dispute raised by the first party is not an industrial dispute to be entertained by this tribunal. The management contended that after that wrote a letter dated 19-07-1995 forming the ALC that the first party has left the job voluntarily and cannot be provided with the employment due to non availability of the vacancy and thereafter there being a vacancy available, it agreed to take back the first party on daily rated job by his letter dated 2-08-1995; that on 08-09-1995 under the influence of liquor the first party came to report for duty and quarreled with the staff indulged in stone throwing resulting into a police complaint against him with the Hebbal Police Station. Thereafter the first party remained absent and once again approached the ALC. He was again given work as a casual labourer on 02-01-1996 and once again the first party remained absent from duty on his own; that the first party has worked only as a casual daily rated Labourer and has not worked for more than 240 days continuously in a year and therefore, was not entitled for regularisation of his services in as much as he did not fulfill the educational qualifications and the age prescribed for a civil post under the defence department; that in spite of the attitude of the first party, the management was quiet lenient in re-appointing him as a daily rated worker and he misused the leniency by filing the present frivolous petition. Therefore, the management contended that there was no question of violation of rights or any malafide on the part of the management in harassing the first party and that there was also no question of termination of his services as he himself remained absent from duty and that the present dispute is liable to be dismissed on the ground that he approached the ALC after 5 years and 9 months of the alleged termination. Therefore, the management requested this tribunal to reject the reference.

4. It is seen from the records that the management did not adduce any evidence to justify its action in

terminating the services of the first party. On the other hand the first party examined himself before this tribunal on 21-06-2001 and it is on the basis of the pleadings of the parties and the statement of the first party coupled with the two documents marked on his behalf at Ex. W1 & W2, my learned Predecessor by award dated 24-08-2001 allowed the reference and while setting aside the termination order directed the management to reinstate the first party from the date of termination with continuity of service without awarding any back wages.

5. It is aggrieved by this award the management approached the Hon'ble High Court in Writ Petition No. 5554/2000 and his Lordship of our Hon'ble High Court vide order dated 08-06-2006 quashed the award passed by this tribunal, and remanded the matter back for fresh disposal in accordance with law.

6. Subsequent to the remand, one Mr. GSPK, Advocate filed power for the first party and Shri KMJR filed power for the Second Party. On 18-01-2007 when the case was posted for any further pleadings of the parties, no additional pleadings were filed and therefore, the matter came to be posted for evidence of the Second Party. On 23-03-2007 Shri HSN Advocate for Shri KMJR made a submission that he has no further evidence for second party and he wants to cross examine the first party whose statement in examination chief had already been recorded by this tribunal as noted above. On 25-06-2007, the first party was recalled and was cross examined in part. On 20-8-2007, when the first party was present, one Mr. Shivalingaiah, said to be the office superintendent of the management requested time to cross examine the first party and this request for the management having been rejected first party came to be discharged and the matter came to be posted for arguments on merits. On 17-09-2007, counsel for second party filed a memo with certain documents to show that the management's establishment has been closed under the orders of the Govt. of India dated 27-06-2007. Both the counsels were heard and the matter was posted for award.

7. Learned counsel for the first party, vehemently, argued that there was already an award in favour of the first party and it being set aside in the aforesaid writ petition, the matter was remanded back for fresh disposal but even after the remand the second party did not lead evidence nor cross examined the first party and therefore, believing the testimony of first party coupled with his above said two documents at EX. W1 & W2. Termination order passed against him is liable to be set aside with all consequential benefits including the back wages and the relief of continuity of service.

8. Whereas, learned counsel for the second party submitted that first of all the management establishment has been closed w.e.f. 27-07-2007 and therefore, there is no question of reinstatement of the first party with the management any more. His next contention was that the first party just was appointed as a casual labourer as and when the work was required in the farm maintained by the management and that he never worked continuously for a period of 240 days in any calendar year. He submitted that the services said to have been rendered by the first party between the year 1983 and 1988 cannot be taken into account and that even for that

also there is no proof by the first party that during the said period he worked continuously for 240 days in a particular calendar year. His next contention was that the first party has not produced any evidence before this tribunal to suggest that he worked continuously for a period of 240 days immediately before his alleged termination was made in the month of January 1996. He submitted that the oral testimony of the first party (WW1) though has remained uncontroverted and no evidence as such has been adduced by the management but the statement of the first party not being sufficient to prove the fact that he worked for 240 days continuously previous to his alleged termination. There was no need for the management to adhere evidence and therefore, there arises no question of violation of the provisions of Section 25F of the ID Act, read with Section 2(00) of the ID Act. He also contended that the first party being a casual labourer not being appointed on regular basis following a regular procedure of appointment, he cannot claim the right of reinstatement or regularisation of services and that he cannot maintain the present dispute seeking protection of the provisions of Section 25F of the ID Act. In this context learned counsel relied upon the following two rulings :

1. JT 1997(4)SC 560

2. JT 2006(4)SC 420

9. Learned counsel for the first party also took support of the decisions reported in JT 2000 (3) SC page 1 and JT 2000(9)SC page 457.

10. After going through the records, I find substance in the arguments advanced for the management. Of course as seen above, there was an award in favour of the first party passed by this tribunal and that came to be quashed by the Hon'ble High Court in the said writ petition remanding the matter back to this tribunal for fresh disposal and the management once again did not choose to lead any evidence on its part and as noted above the management also did not cross examine the first party to the full extent. However, as argued for the management, even if, the statement of the first party as given in his examination chief as well as the facts brought out in his cross examination done partly, the most important fact to be established that he worked with the management continuously for a period of 240 days immediately prior to his alleged termination has not been established and therefore, only because the management did not lead evidence on its part or not cross examined the first party in full cannot be a circumstance alone to pass award in favour of the first party. The statement of the first party, therefore, now to be appreciated, made in his examination is just a replica of the averments made in his claim statement, therefore, need not be repeated.

11. Now coming to his statement in cross examination. Though it was elicited from his mouth that his name was registered in the Employment Exchange and his name was sponsored through Employment Exchange to the management, he did not produce any proof in that regard. In his further cross examination he stated that after he was refused work from 26-10-1988 he did not work with the management for about ten months till he rejoined the work on 05-08-1989. He admitted that he worked for about 24 days in the month of August 1989, does not remember to

have worked for about 22 days in the month of September 1989 and for 18 days in the month of October 1989. He further admitted that he has not worked with the management thereafter. He also admitted that on 02-11-1989, he collected his wages for a period of 17 days from the management. It was further elicited that he re-joined the services of the management on 01-10-2002 on the basis of the award passed by this tribunal and he so worked for a period of 3 years and 3 months. Therefore, keeping in view the statement of first party which is just the repetition of his averments made in the claim statement, by no stretch of imagination it can be said that the first party worked with the management continuously for a period of 240 days or more in a 12 calendar months immediately prior to his alleged termination. As per the statement of the first party, for the last time he re-joined the services of the management on 2-1-1996 and on 23-05-1996, his services were terminated. It is in the statement of the first party as well as clear from the averments made in the claim statement that after he joined the services of the management on 05-08-1989 and worked with the management for about a period of 3 months, his services said to have been terminated once again and it is by virtue of the fresh settlement before the ALC dated 01-01-1996 he was taken in service on 02-01-1996. Therefore, undisputedly the first party never worked with the management after he served with the management for about a period of 3 months in the light of the settlement dated 26-10-1988. It is clear from the claim statement and from the statement of the first party that in the light of the abovesaid settlement he worked with the management for a period of 20 days in the month of August 1989, 22 days in the month of September and 17 days in the month of October 1989. The first party in fact admitted that thereafter he again worked with the management on 02-11-1989 and received his 17 days wages for having worked in the month of October 1989. Therefore, now, it is clear from the records before this tribunal that after having worked for about 3 months in the year 1989, the first party once again approached the ALC somewhere in the month of June 1995 i.e. after a gap of about 5 years and 8 months with a complaint that he has been again removed from service on 23-05-1996. Therefore, first of all as per the very case of the first party he did not work with the management for the abovesaid period of 5 years and 8 months till he re-joined the services of the management on 02-01-1996. Therefore, first of all as per the very case of the first party he did not work for a period of 240 days much less continuously before his alleged termination was taken place on 23-05-1996 as undisputedly he was never in the service of the management after having worked with it in the aforesaid months of 1989 till he restarted his work with the management from 02-01-1996. It was rightly argued for the management that the services said to have been rendered by the first party earlier to the year 1988 cannot be now taken into consideration, even if, it is established that the first party in fact, was in the service of the management between the years 1983 and 1988. The condition precedent to be fulfilled by the first party in this case in order to attract the provisions of Section 25F read with Section 2(00) of ID 10 Act, will be the proof to be established before this tribunal that he worked with the management continuously for

a period of 240 days immediately before his services were terminated. In the instant case, the first party was out of the service of the management undisputedly in between the years 1989-1996, he said to have re-joined the services of the management only on 2-1-1996 and once again was refused worked by the management on 23-5-1996. Therefore, there cannot be any hesitation in the mind of this tribunal to record a finding that the first party has not fulfilled the abovesaid condition to attract the provisions of Section 25F of the ID Act read with Section 2(00) of the ID Act. Moreover, their lordship of Supreme Court in the aforesaid first decision cited on behalf of the management in no uncertain terms have laid down the principle of law to the effect that "the daily wage had no right to posts and their disengagement is not arbitrary- since they are temporary employees working on daily wages, their disengagement from service cannot be treated under Industrial Disputes Act." Therefore, the first party undisputedly being appointed by the management intermittently and by virtue of the aforesaid settlement made before the ALC as the Casual Labourer on temporary basis, he has got no right to claim reemployment nor has got any right to raise the dispute to be entertained under the Industrial Disputes Act.

12. Now, coming to the question of delay raised by the management. It was again rightly argued that the very conduct of the first party in not raising the dispute with the management for a period of about 5 years and 8 months must lead to an inference, that there was no dispute itself existing in between the management and the first party during the aforesaid period and therefore, the reference is to be rejected on this count also.

13. As far as the question as to whether the management is an Industry or not, there was no arguments advanced for the management on this point or any evidence was led. Therefore, it is to be held that the management is an Industry as defined under the said Act. The Principle laid down by their Lordship of Supreme Court in the aforesaid two cases cited on behalf of the first party are not at all applicable to the facts of the case on hand. In the first case question of termination of service of a probationer was involved and whereas in the second case the suspension order pending departmental enquiry and the question of payment of subsistence allowance to the workman was involved. Therefore, both the cases are clearly distinguishable on facts of the case involved. Hence will not come to the rescue to the first party. Therefore, having regard to the finding recorded by this tribunal that the first party did not fulfil the condition of regularisation of his services as he did not work continuously for a period of 240 days and more, immediately prior to his alleged termination, the provisions of Section 25F of the ID Act read with Section 2(00) of the ID Act do not attract and in the result, the claim of the first party by way of reference on hand must fail and hence the following award :

AWARD

The reference is rejected. No costs.

(Dictated to PA transcribed by her, corrected and signed by me on 30th October 2007)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 15 नवम्बर, 2007

का. आ. 3455.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस. सी. सी. एल. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, गोदावरीखानी के पंचाट (संदर्भ संख्या 57/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-11-2007 को प्राप्त हुआ था।

[सं. एल-22013/1/2007-आई आर (सी-II)]

अजय कुमार गौड़, डेस्क अधिकारी

New Delhi, the 15th November, 2007

S.O. 3455.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 57/1998) of the **Industrial Tribunal, Godavarikhani** as shown in the Annexure in the industrial dispute between the employers in relation to the management of SCCL and their workman, which was received by the Central Government on 15-11-2007.

[No. L-22013/1/2007-IR(C-11)]

AJAY KUMAR GAUR, Desk Officer

ANNEXURE

BEFORE THE CHAIRMAN INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT, GODAVARIKHANI

PRESENT:- Sri M. Shanmugam, B.Com., B.L.,
Chairman-cum-Presiding Officer

Saturday, the 18th day of August, 2007

Industrial Dispute no. 57 of 1998.

Between

Gummadi Satyanarayana, S/o. Malleesh,
Ex-Fitter Helper,
C/o Sri Meda Chakrapani,
Advocate, Near IFTU Office,
Gandhinagar, PO : Godavarikhani,
Dist. Karimnagar A.P. 505209. —Petitioner.

And

The Chief General Manager,
Singareni Collieries Co.Ltd., Ramagundam Area-1
Godavarikhani, Dist. Karimnagar.

—Respondent.

This Industrial Dispute petition coming on before me for final hearing on 23-07-2007, upon perusing all the documents on record and upon hearing arguments of Sri Ahmed Hussain, Advocate for the petitioner and Sri D. Krishna Murthy, Advocate, for the respondent, having stood over for consideration till this date, the court passed the following :—

AWARD

1. The Government of India referred the dispute to this court for favour of adjudication :—

"Whether the action of the General Manager, M/s. SCCO. Ltd., Ramagundam-1, Godavarikhani in dismissal of Sh. Gummadi Satyanarayana, Badli Fitter, GDK-1 of

Ramagundam-1 Area, Godavarikhani w.e.f., 19-2-96 is justified and not ? And whether he is entitled of reinstatement with back wages of other consequential benefits ?

If not, to what relief he is entitled ?"

2. The petition affidavit allegations briefly are as follows :—

The petitioner submits that he has been appointed by the respondents company and ever since his appointment; he was discharging his duties to the utmost satisfaction of his superiors, without any adverse remarks.

3. The petitioner submits that during the relevant period of 1995, the petitioner was working under the control of Dy. C.M.E., GDK.No.2 Incline of the respondent company, as Fitter Helper. By that time, the petitioner was put-in a service of about 24 long years. While so, on the relevant date of 21-9-1995, as per the directions of the authorities of the respondent, the petitioner was cutting G.I. sheet during 1st shift and at about 09-30 A.M., when he was cutting the said G.I. sheet his right hand finger was severely injured and got cut. The petitioner was admitted in the respondent's-company hospital for treatment. As the petitioner was not completely cured, he was shifted to private hospital also for a considerable period.

4. While the matter stood thus, it is pertinent to submit that during the years 1993 and 1994 the petitioner suffered from severe fever and ill-health very frequently and was compelled to report sick and take treatment, the petitioner was also compelled to take necessary treatment in private hospitals also as per the need and necessity.

5. That after recovery and completion of treatment, the petitioner produced the medical certificates and fitness certificates to the authorities of the respondent and after satisfying, he was given duty. But, on 3-5-1995 charge sheet No GDK. 2/6-F/1072, dt.3-5-95 was issued by the respondent alleging/leveling the false allegations of absenteeism, during the year 1994. As submitted supra, the petitioner did not absent himself intentionally or willfully and there is sufficient cause. Due ill-health the petitioner could not attend to his duties and was compelled to take treatment at frequent intervals. For every period, the petitioner has produced necessary sick/fitness certificates issued by the doctors, including the doctors of the respondent's company hospital also. Later, the respondent authorities were satisfied with his representations/explanations, and he was given duty.

6. That during the 1st shift on the relevant date of 21-9-1995 the right hand finger of the petitioner was got cut while he was discharging his duties and for necessary treatment, he was got admitted in the hospital. During the course of treatment of the petitioner, the respondent got conducted an ex parte enquiry and later dismissed him from service w.e.f., 19-02-1996, vide Proc., No. P.R.G. 1/32/750, dt.16-2-1996, illegally and unjustly.

7. It is submitted that the enquiry was not conducted fairly and properly. The petitioner was not given any

opportunity to participate in the proceeding of the enquiry. No cogent evidence was produced by the management to prove the allegations. No documents were served on the petitioner basing upon which the charges/allegations are framed, along with the charge sheet or otherwise. The enquiry officer failed to see that the alleged charge of absenteeism during the year 1994 was once dropped by the respondent and the petitioner was given duty subsequently. The findings of the enquiry officer are perverse and biased. Infact, copies of the proceedings and findings of enquiry were not served on the petitioner. The respondent has also failed to issue any show cause notice, proposing the punishment of dismissal from service, before/prior to issuing of dismissal order dt. 16-2-1996. Hence, the enquiry is to be held as invalid and the entire proceedings of the respondent are void, abinitio and cannot be sustained under law.

8. The petitioner submits that after his dismissal from service, he approached the respondent authorities several times requesting to reinstate him into service but all his efforts were proved futile and the mercy petition dt. 16-8-1996 was also not considered unjustly. That in order to take treatment for his ailment/ill-health, he was compelled to stay in the hospital and hence could not discharge his duties. After his recovery, he produced fitness certificates and was given duty by the authorities of the respondent. They already dropped allegation was taken-up by the respondent with a view to dismiss him from service illegally. That the respondent while imposing the capital punishment of dismissal from service, has looked into the past record of the petitioner which is bad under law. It is well settled proposition of law that past record cannot be considered for want of framing of specific charge and conducting of enquiry etc., (Divn. Bench Judgment of the Hon'ble High Court of A.P., in Nara Goud Vs. Industrial Tribunal case reported in ALT 1996 (3) - 648). More so, no show cause notice was issued. Hence, there is error of law apparent on the face of the record and the action of the respondent in dismissing the petitioner from service cannot be sustained.

9. That he hails from a very poor family and he remained un-employed, could not secure any alternate job despite best efforts ever sine his dismissal from service, and facing much hardship to eak-out livelihood and all the family members are on the verge of starvation due to the unjust action of the respondent. Admittedly, the petitioner has put-in a long service of about 24 years in the respondent's company and due to over age/crossing of upper age limit, the petitioner is not in a position to secure alternate job. Considering the long service, the respondent ought not dismissed the petitioner from service once for all.

10. That the capital punishment of dismissal of the petitioner from service is highly arbitrary and not at all warranted. It is shockingly disproportionate and not at all commensurate with the gravity of the alleged charge of absenteeism. Hence, the dismissal order dt. 16-2-1996 passed by the respondent may be set-aside/quashed by this court by virtue of the wide powers conferred U s. 11-A of Industrial Dispute Act.

11. It is therefore prayed that the court may be pleased to set-aside the dismissal order dt. 16-2-1996 passed by the respondent in dismissing the petitioner from service w.e.f. 19-2-1996, and direct the respondent to reinstate the petitioner into service with continuity of service and all other consequential attendant benefits, including full back wages, in the interest of justice and fair play.

12. The averments of the counter filed by the respondent are that the contents of para 1 of the petition to the extent that the petitioner was discharging his duties to the utmost satisfaction of his superiors without any adverse remarks are totally false and denied by the respondent.

13. The reply to para 2 of the petition is that it is true that the petitioner was working as Fitter helper at GDK.No.2 Incline in the year 1995. It is false to alleged that the petitioner has put in 24 years of service. The petitioner was initially appointed in the respondent company on 6-7-81 as such he has put in only 14 years of service until his termination. It is false to allege that on 21-9-1995 the petitioner was cutting a G.I. sheet at about 9-30 AM and when he was cutting the G.I. sheet his right hand finger was cut and severely injured. It is false to allege that the petitioner was admitted in the respondent company hospital for treatment and subsequently he was shifted to a private hospital for a considerable period. The petitioner did not file any document to show that he had taken treatment in the respondent company's hospital for the alleged injury stated to have been received on 21-9-1995.

14. The contents of para 3 of the petitioner are totally false and denied by the respondent. It is false to allege that the petitioner suffered from severe fever and he was not feeling well very frequently during the years 1993 and 1994 and he had taken treatment in the company's hospital and also in private hospitals. That the petitioner was absenting for his duties continuously and habitually since 1990. The particulars of the attendance of the petitioner from the year 1990 are as follows:-

Year	Musters
1990	188 days
1991	86 days
1992	32 days
1993	81 days
1994	55 days

Thus it is clear from the records that the petitioner was not serious in attending his duties since 1990.

15. The reply to para 4 of the petition to the extent that the petitioner was issued a charge sheet dt. 3-5-1995 is true and all other allegations made therein are false and denied by the respondent. It is false to allege that the petitioner did not absent himself intentionally or willfully and only due to his ill-health he could not attend to his duty. It is false to allege that the petitioner has produced necessary sick fitness certificate issued by the doctors of the respondent company. It is false to allege that the respondent company authorities have satisfied with the explanation submitted by the petitioner against the charge sheet dt. 3-5-1995 issued to the petitioner.

16. The contents of Para 5 of the petition are totally false and denied by this respondent. It is false to allege that on 21-9-95 the right hand finger of the petitioner was cut while he was discharging his duties. It is false to allege that during the course of treatment of the petitioner, the respondent got conducted an exparte enquiry and later on dismissed the petitioner from service w.e.f. 19-2-1996.

17. The contents of Para 6 of the petition are totally false and denied by the respondent. It is false to allege that the enquiry was not conducted fairly and properly and the petitioner was not given any opportunity to participate in the enquiry proceedings and no cogent evidence was produced by the management to prove the allegations. It is false to allege that the findings of enquiry officer are perverse and bad and the respondent failed to issue any show cause notice proposing the punishment of dismissal from service prior to issuing of dismissal order dt. 16-2-1996 and that the enquiry is to be held as invalid. That the petitioner is absenting from duty habitually and hence a charge sheet No. GDK.2/6-F/1072-73, dt. 17-5-1995 was issued to him under company's Standing Order 23(25) (31). The charge sheet was posted to his native address as well as to the local address by Regd. Post with Ack. Due. The said registered letters were returned undelivered by postal authorities and as such the charge sheet was published in Telugu daily 'Andhra Jyothi' on 25-7-1995 advising the petitioner to submit his explanation within 3 days of publication of charge sheet and he was also asked to attend the enquiry on 22-8-1995 at 10.00 AM in the Office of Dy. CME, GDK.2 Incline. The petitioner did not appear on the day specified and no explanation was given. Hence, enquiry was conducted exparte. On the basis of the evidence on record the enquiry officer proceeded and held the petitioner guilty of the charges leveled against him. A copy of the proceedings and enquiry report were sent to the petitioner to his address and the said enquiry report also was returned undelivered by the postal authorities. Hence, a notice was published in Telugu daily 'Andhra Jyothi' on 13-1-1996 advising the petitioner to collect the copy of the enquiry proceedings and enquiry report from the Office of the ACPM.R.G.I and to submit representation if any within 7 days of publication of notice. Even after the said paper publication the petitioner did not turn up and failed to submit any representation to the disciplinary authority. Hence, the respondent authorities have passed the orders dismissing the petitioner from the service.

18. The contents of Paras 7 to 11 of the petition are totally false and denied by this respondent. It is false to allege that the petitioner has approached the respondent after his dismissal from his service and submitted a mercy petition on 16-8-1996. It is false to allege that the petitioner was compelled to stay in the hospital for treatment. It is false to allege that hitherto dropped allegations were taken up again by the respondent with a view to dismiss the petitioner from the service illegally. As per the standing orders of respondent company absenteeism is a ground for termination. It is false to allege that no show cause notice was issued to the petitioner hence there is error of law apparent on the face of the record. The petitioner is habitually absent for his duties since 1990 and he failed to

improve his attendance even after giving ample opportunity to him. It is false to allege that the capital punishment of dismissal is arbitrary, not at all warranted and disproportionate.

19. Further the respondent company cannot absorb habitual indiscipline and absenteeism of workmen because it is becoming unbearable burden on the whole of industry. The company cannot go on maintaining the workmen who absent themselves habitually and continuously on rolls of the company. It hinders the progress of the industry. The attendance particulars of the petitioner since 1990 clearly shows that the petitioner is not interested in his job. The enquiry officer has conducted a fair enquiry by following the principles of natural justice. The management of the respondent company has taken a lenient view and did not proceed against the petitioner although another charge sheet was issued to him prior to the charge sheet dt. 17-5-1995. Inspite of giving the several opportunities to improve the attendance, the petitioner continued to be habitual absentee. That chronic absenteeism and indiscipline are proved to be the root causes for the losses being sustained by the respondent company. The charges leveled against the petitioner are proved and hence the respondent company has rightly dismissed the petitioner from the service. Therefore, the above petition is liable to be dismissed with costs.

Heard oral arguments on both sides.

20. Both the sides did not choose to mark the documents. This case was posted for award on 11-4-2007, but on that date, award was not pronounced as documents not marked on either side. The court adjourned for marking of documents on 16-4-2007, 23-4-2007, 30-4-2007, 4-6-2007, 11-6-2007, 25-6-2007, 2-7-2007 and 23-7-2007, petitioner and his counsel called absent and no representation. Respondent present, the court granted 8 adjournments for marking of documents only, after reopened the matter, but the petitioner and his counsel did not turn-up to the court. Hence, the court has no other go except to the documents already marked in this court, the same is marked i.e., on behalf of the petitioner-workman side, Ex.W-1 to Ex.W-5 are marked. On behalf of respondent company side Ex.M-1 to M-9 are marked. Petitioner side no decision filed. On behalf of the respondent side, single decision was filed. 2002(1) ALD-314 (D. B.) I.D. Act, 1947 Sections 2(oo)(bb) and 25(F) termination of service on the ground of continued absence from duty under the standing orders does not amount to retirement. When such order of termination was made after giving notice to the employee. It is not liable to be challenged. The petitioner absented himself for 8 consecutive working days. The facts of the cited decisions are not at all applicable to the present facts of the case.

21. Before going to the merits of the case, I would like to submit how this case was delayed. This case was remanded from the High Court as per the writ petition order dt. 18-8-2005 and it was received by this court on 21-9-2005 stating that this court to decide the dispute afresh in the light of the conversations i.e., framed a specific issue regarding the validity or otherwise of the enquiry conducted by the management.

22. Originally this reference was received by this court 3-8-1998 and it was checked and registered on 18-8-1998. Notice issued to the both the parties on 7-9-98. Claim statement filed on 3-11-1998, counter filed on 15-6-99, award was passed on 18-9-2001. Against that writ appeal was preferred No. 1448/2005 and it was ordered on 13-8-2005.

23. As per the High Court directions, preliminary issues were framed on 7-8-2006 and orders pronounced on 12-10-2006. In the result, the domestic enquiry conducted is legal, valid and proper and binding on the parties. The matter was posted for arguments on 16-10-2006. On 20-11-2006, both the petitioner and respondent counsel stated they have no oral evidence on either side. Hence the case was posted for arguments on 27-11-2006. Since then 12 adjournments are granted for both sides for arguments. Finally on 26-3-2007 heard arguments and posted for award on 11-4-2007. On 11-4-2007, the award was not pronounced due to the non marking of the documents on either side. Again the court gave the opportunity for marking of the documents for 8 adjournments both the petitioner and his counsel did not turn-up and chooses to mark the documents any how as earlier filed and marked in this I.D. As per the earlier marked documents alone, the court has taken into consideration. Though the petitioner counsel filed Xerox copies in to the court, but he has no interest to mark into the court whether filing the originals or sent for the documents from the respondent. When the petitioner has not utilized the opportunity of produce and mark the documents, but both the petitioner and his counsel failed to mark any documents into the court after the matter was remanded from the High Court.

The petitioner counsel filed the written arguments on behalf of the petitioner on 8-1-2007 by supplying copies to other side.

24. Heard the oral arguments advanced by the learned counsel appearing for respective parties. I have perused the claim statement and contents of petition and counter allegations together with all other documents filed into the court and material available on record. I have also taken into consideration the various points raised by the counsels appearing for the rival parties during the course of their arguments. Having seen the entire material available on records on the facts and circumstances of the case, the following points are disputed. A question in this reference arises for consideration. This court received the reference on 3-8-1998 are as follows:—

“Whether the action of the General Manager, M/s. SCCLtd., Ramagundam-I Godavarikhani in dismissal of Sh. Gummadi Satyanarayana, Badli Fitter, GDK-I of Ramagundam-I Area, Godavarikhani w.e.f. 19-2-96 is justified and not? And whether he is entitled for reinstatement with backwages of other consequential benefits? If not, to what relief he is entitled?”

Now it has to be seen whether the absence of the petitioner is willful, wanton or deliberate or beyond his control.

25. From the petitioner's counsel written arguments in the year 1994, the petitioner has been forced to proceed on leave, sick leave frequently on account of ill-health. After his recovery, the petitioner-workman reported back for his normal duties producing the medical certificate dt. 12-4-1994 i.e. from 16-3-1994 to 12-4-1994 for 26 days and from 18-4-1994 to 11-7-1994 for 90 days and from 21-9-1994 to 1-10-1994 for 10 days, copy of medical certificate enclosed on which the respondent has allowed the petitioner to the duty regularly by directing the petitioner to respondent's hospital along with the out side sick brought by the petitioner for further fitness, like this the respondent has dropped the proceedings. While the petitioner working under the Dy.C.M.E, GDK. No.2 Incline on 21-9-1995 in the 1st shift his right hand finger got severally injured and got cut while cutting the G.I. sheet on duty. The accident report issued by the respondent company is enclosed for. From the accident spot to rushed to the respondent hospital and also shifted to private hospital and had to got extensive treatment for considerable period. The petitioner in his written arguments page No. 6 he gave the detailed particulars of holidays and working days in the year 1994 in the bottom of the page. Further the petitioner's counsel written argument the cause for absence of the petitioner to the duty is due to extreme and unavoidable circumstances which neither willful nor intentional, but incidental on his ill-health grounds. The petitioner counsel submits that the capital punishment of dismissal of the petitioner is highly arbitrary and not at all warranted. It is shockingly disproportionate and not at all consumerate with the gravity of the alleged charges of circumstantial absenteeism. Hence, pray this court to setaside the order reinstate the petitioner into service with continuity of service, full backwages and all other attendant consequential benefits.

26. For this, the respondent counsel argument was that there is no dispute with regard to the petitioner worked in the company upto the issue of charge sheet. It is false to allege that petitioner has put in 24 years of service. The petitioner was initially appointed in the respondent company on 6-7-1981, as such he was put in only 14 years of service upto his dismissal. The respondent counsel also contended that it is false to allege that on 21-9-1995, the petitioner was cutting a G.I. sheet at about 9-30 AM, and when he was cutting the G.I. sheet, his right hand finger was cut and severally injured. It is false to allege that the petitioner was admitted in the respondent hospital for treatment and subsequently, he was shifted to a private hospital for a considerable period. The petitioner did not file any document to show that he had taken treatment in the respondent company hospital for the alleged injury stated to have been received on 21-9-1995. The respondent standing counsel in his counter para No.2 given the particulars of attendance of the petitioner from the year 1990 are as follows as shown in the counter. Thus it is clear from the records that the petitioner was not serious in attending his duties since 1990.

27. The respondent standing counsel contended that the petitioner was issued charge sheet on 3-5-1995 is true and all other allegations made therein are false and denied

by the respondent. It is false to allege that the petitioner did not absent himself intentionally or willfully and only due to his ill-health he could not attend to his duty. It is false to allege that the petitioner has produced necessary sick/fitness certificate issued by the doctors of the respondent company. It is false to allege that the respondent company authorities have satisfied with the explanation submitted by the petitioner against the charge sheet dt. 3-5-1995 issued to the petitioner. Further the respondent standing counsel contended that it is false to allege that the enquiry was not conducted fairly and properly and the petitioner was not given any opportunity to participate in the enquiry proceedings and no cogent evidence produced by the management to prove the allegations. The respondent issued the charge sheet posted to his native address as well as local address by regd. post with Ack. due and it was returned undelivered and charge sheet was published in Telugu daily Andhra Jyothi on 25-7-1995 to submit his explanation and also asked to attend enquiry on 22-8-1995 at 10-00 A.M., in the office. The petitioner did not appear on that day and no explanation was given. Hence, enquiry was conducted *ex parte*. A copy of the enquiry proceedings report sent to the petitioner address and it was also returned undelivered by the postal authorities. Hence, a notice was published in Telugu daily Andhra Jyothi on 13-1-1996. Even after the said paper publication, the petitioner did not turn-up and failed to submit any representation to the disciplinary authority. Hence, the respondent passed the orders of dismissing the petitioner from service.

Further and main argument of the respondent counsel the respondent company cannot absorb habitual indiscipline and absenteeism of workman because it is becoming unbearable burden on the whole of industry. The attendance particulars of the petitioner since 1990 clearly shows that the petitioner is not interested in his job. In spite of giving several opportunities to improve the attendance the petitioner continued to be habitual absentee. It is submitted that chronic absenteeism and indiscipline are proved to be root causes for the losses being sustained by the respondent company. The charges leveled against the petitioner is proved and hence the respondent company has rightly dismissed the petitioner from the service. Hence, he prayed the court the petition is liable to be dismissed with costs.

29. Before adverting to the question relating to the legality and validity of the order passed by the respondent against the petitioner dismissal from the service it may be necessary to briefly notice the relevant facts are as follows. In this case there is no dispute with regard to the petitioner was appointed by the respondent company in the year 1981 and petitioner was absent since 1990 as per the attendance register and counter allegations filed into the court.

30. From the respondent counsel argument the petitioner was continuously absent the respondent issued the charge sheet marked as EX.M.1 through the Regd. Post addressed to the petitioner along with Ack., cards which were returned to sender duly unserved the registered envelopes are marked under EX.M-2. On that the

respondent the enquiry notice was published in Telugu daily Xerox copy is filed into the court marked as Ex. M-3. Office order appointing the enquiry officer to conduct the enquiry against the charge sheeted petitioner and it is marked as EX.M-4. The enquiry proceedings report submitted by the enquiry officer marked as Ex.M-5. The respondent addressed the letter to the petitioner enclosing the copy of enquiry report marked as Ex. M-6 through the registered envelope and it was returned unserved and it is marked as Ex. M-7. After wards notify the petitioner to collect the copy of enquiry report through Telugu daily Andhra Jyothi marked as Ex 8 - finally the respondent sent the letter addressed to the petitioner dismissed from service is marked as Ex.M-9. The respondent standing counsel also marked the EX.M-10 copy of the interim injunction order dt. 2-3-2006 in I.A.No.127/2006 in O.S.No.64/2006 on the file of the court of Jr. Civil Judge, Godavarikhani to know that the petitioner knows the details of the enquiry and its report etc., In this case, the petitioner refuses or avoids or neglects to receive the charge sheet or to submit his explanation or to appear at the enquiry without any justification or good reasons, it shall be opened to the respondent management or enquiry officer to proceed with the enquiry in his absence. The enquiry was conducted by the enquiry officer in accordance with law. The learned counsel for the petitioner failed to show any illegality or infirmity in the enquiry conducted against the petitioner in the report submitted by the E.O., In spite of knowing the enquiry details as he filed the suit in Jr. Civil Judge's court, Godavarikhani against the respondent, but the petitioner did not attend the enquiry nor did not seek any adjournment of the enquiry. In this case, the postal covers sent to the petitioner returned to the respondent with the postal endorsement it is obligatory on the part of the respondent management to publish the same in the news papers. In this case the respondent followed the procedure by publishing in the Telugu daily Andhra Jyothi. When the petitioner knowing all the enquiry details, but the petitioner did not attend the enquiry and failed to appear before the enquiry officer and participated in the enquiry, I failed to understand how he can question the validity of the enquiry. When the respondent failed to achieve the desire effect of making the petitioner to participate in the enquiry proceedings as a result of which the enquiry officer was left with no option but to decide the matter *ex parte* allowing the respondent management to let in evidence and thus closing the enquiry proceedings. The enquiry officer submitted his findings holding the petitioner guilty of all the charges. Thus ultimately deciding all the charges framed against the petitioner. Hence, I have given my reasons for rejecting the contentions of the petitioner counsel that the enquiry was vitiated. Further I passed the detailed order on the preliminary issues, dt. on 12-10-2006. The order is in the file for perusal.

31. The general procedure for applying leave and sick leave by the petitioner in the respondent company and standing orders regulations as well as the leave regulations of the corporation. According to the charge framed against the petitioner as per the charge sheet marked as Ex.M-1 the petitioner remained absent on a number of

days without leave or without sufficient cause during the year 1994 as detailed below given in the charge sheet. It clearly indicates that the petitioner is in the habit of absenting from work frequently, it amounts to misconduct under company's standing order No.25.(25) and 25(31) which reads as follows absence from duty without sanctioned leave or sufficient cause or overstaying beyond sanctioned leave. Hence, the petitioner is directed to submit his written explanation to the charge sheet within 3 days on receipt of the same failing which it will be construed that the petitioner has no explanation to offer. The petitioner is fully aware of the standing orders regulations as well leave regulations of the corporation. If the petitioner has to go on leave, he has to obtain prior permission. If the petitioner-worker applies for sanction of sick leave, the same will be granted basing upon the medical certificate and his leave will be granted basing on the medical certificates, some times petitioners may inform about his disease and obtain sanction and goes on sick leave. In certain cases when the petitioner fell into sick he will send leave letter along with medical certificate. The standing orders clearly contemplates that the medical certificates shall be allowed only on production of medical certificate from the medical officer or Government medical officer dispensary. In the present case the petitioner invented the cause of sickness is that the petitioner suffered from severe fever and ill health very frequently and was compelled to report sick and take treatment at the respondent company hospital and also private hospitals as per need and necessity. Due to ill-health the petitioner could not attended to his duties and was compelled to take treatment. The petitioner did not absent himself intentionally or willfully and there is sufficient cause due to ill-health. The petitioner's ill-health is only fever that is not so serious whether to attend personally or by intimate through somebody with the respondent or sending leave letters to the respondent, but atleast the petitioner did not approach the respondent with medical certificates and fitness certificates and requested to join him into duties.

32. From the petitioner's written arguments the cause for absence of the petitioner-workman to the duty is due to extreme and unavoidable circumstances which neither willful nor intentional, but incidental on his ill health grounds. The petitioner is crossing his upper limit of service; there is no chance to get job for survival. As per the documents filed and marked on behalf of the petitioner side. Ex.W-1 to W-5 i.e., Ex.W-1 & W-2 are the mercy petitions dt.16-8-1996 and 23-9-1996 respectively. Ex.W-3 is the minutes of the conciliation proceedings dt.28-2-1997 before the Asst. Labour Commissioner, Mancheri over the dispute of reinstatement the management did not agree for referring the matter for arbitration as there was no merit in this case. Ex.W-4 is the Xerox copy of letter dt. 8-2-1993 the petitioner has brought an out station sick certificate which enclosed herewith please examine him and advise his fitness for duty. Ex.W-5 dt. 21-9-1995 accident report. Except that the petitioner did not file any documents as stated in his written argument para No.1. In this case, the petitioner did not give any explanation to the charge sheet and not attended the enquiry. From the petitioner's counsel

argument only the sickness is suffering with fever. If the suffering fever is such what he was prevented from discharging his duties, he has to prove the same by examining the doctor who treated him or by producing the documents on which he is relied including the medical certificates. But in this case the petitioner did not file any medical certificate and did not attend the enquiry and the petitioner also did not let into the witness box to give his evidence. The sickness is fever even according to the petitioner is not so serious which prevent a person to intimate the reason or cause for absence well in advance for about 274 days he was absent without intimation or informing with the respondent-management company. Leave alone the grant of leave he has not even taken any pains to intimate to the respondent about his absence. The petitioner never submitted any medical certificates since the nature and functions of the petitioner are such that prior intimation of his absence is very essential. The findings of the enquiry officer would clearly reveal that as the petitioner admitted the charge leveled against him and not supported by any document placed on record by the petitioner he came to the conclusion that the charges leveled against the petitioner are proved.

33. For this from the respondent standing counsel with a view to appreciate the submissions made by him for the respondent it will be necessary to refer the facts of the case in brief. The petitioner was engaged by the respondent-company as a Fitter Helper at GDK.No.2 Incline in the year 1981. The case of the respondent is that as per the counter allegations and charge sheet the petitioner was absent on a number of days without leave or without sufficient cause during 1994 for a period of 274 days. It appears that the petitioner did not appear before the enquiry officer and did not participate in the enquiry. The enquiry resulted into dismissal of the petitioner from the service. Being aggrieved by that order of dismissal, this reference is preferred to the Government and the same was sent to this court. Further from the learned counsel for the respondent as invited the attention to the findings recorded by the respondent under EX.M-6 and on the basis of the evidence on record the enquiry officer held that the petitioner guilty of the charges framed against him. The respondent contended that though the petitioner stated that to prove the sickness, medical certificates are filed, but it was not filed into the court by the petitioner and it was not duly proved by producing the original certificates or steps not taken to send for the medical certificate from the respondent company and also not examined the doctor, even the petitioner did not stepped into the witness box for deposing regarding to his alleged sickness of fever ill-health. When the petitioner failed to produce the sick certificates, the enquiry officer has no other go except for the available record he will give the findings as in this case, the petitioner did not attend the enquiry. Hence, the enquiry officer made the exparte enquiry. I have carefully considered the submissions it will be necessary to refer when the petitioner plea filed the medical certificates which were relied upon by the petitioner. But in this case, the petitioner not filed the medical certificates and not filed the documents and not sent for the documents though the court gave the ample opportunity

for production and marking of the documents, but the petitioner and his counsel did not take any steps atleast to attend the court and represent the matter that itself shows that they have no interest in the matter.

34. From the respondent standing counsel argument, it is the duty of the petitioner to got step into the witness box to give his evidence for the reasons beyond his control unable to send the sick leave. In this case, no medical certificate was produced, doctor was also not examined. When it was not produced before the court and not marked into the court, the petitioner's counsel argument is vague and general without any documentary and corroborative evidence to prove that the petitioner suffered with sickness ill-health of fever. It is pertinent to note that the petitioner has not at all stepped into the witness box for explaining the admitted absence from duty. When the absence from duty was admitted the reasons if any for the said unauthorized absence could have been brought on record only by the petitioner as it was a fact within his special knowledge. Though the opportunity was given by the respondent the petitioner has not utilize the opportunity chosen to enter into the witness box. Further there is no reason assigned why the petitioner did not enter into the witness box before the enquiry officer or atleast in this court. From the respondent's counsel submission the petitioner did not submitted any application or medical certificates regarding his sickness to the respondent. Thus there is absolutely no explanation forthcoming from the long absence of the petitioner. For having failed to produce the medical certificate and failed to attend before the enquiry and not giving evidence before the Labour Court and not filing of the medical certificates to prove the sickness or not sent for sickness documents if any filed before the respondent. All these things perusal by the respondent concluded that the petitioner did not cognizance of any of the pleas made by the petitioner to the respondent and remained absence throughout.

35. Further from the respondent counsel argument the workman had remained absent from duty for long period without sufficient or bonafide reasons. The workman had forgotten to the punctual and sincere in following the standing orders. Despite the facts that the management had considered his unauthorized absenteeism leniently even then there was no improvement but the petitioner continued the same. Habitual absence of the workman would adversely affect the working of the company. There was no extraordinary circumstances found either in the nature of misconduct or past record of the workman. The petitioner was in the habit of absenting himself from the duties often and again this causing great difficulties and inconvenience to the company that several actions were initiated against the petitioner and he was ordered minor punishments even now and then. But the petitioner never reformed himself and again started his practice of absenting from duties even without prior permission. The further contention of the respondent particularly in the year 1994 for a period of 274 days continuous absent without sanction of any leave and it was only a misconduct on the part of the petitioner and he has no interest to work in the company. The absence of the petitioner without leave for

more than 10 days consequently it is misconduct under the standing orders and even such events the petitioner would become liable for the disciplinary proceedings. But in this case the petitioner did not attend the enquiry and exparte proceedings are conducted.

36. In the present case, it is manifestly clear that the entire case which was sought to be set-up on the part of the petitioner is false and not worthy of credence. There is no perversity in the assessment of the evidence by the respondent and no failure to observe the binding principles of law. In the present case the petitioner himself not attended the enquiry and also before the Labour Court. I have no doubt in my mind that the misconduct or unauthorized absence has been proved by the management in the domestic enquiry as the petitioner himself did not attend the enquiry. It is pertinent to note that the petitioner had no time either at the time of absence or after receipt of charge sheet and after reply for his absence. It was after thought pleading the sickness without any documents and not examining the doctor to prove the sickness and even otherwise it was very weak evidence to support the case of his absence on that ground. He was attempted to put forward the medical ground for his ill-health, but it was futile. He attributes the cause of illness i.e., fever that is not a serious disease. the absence for long period of 274 days it appears that he was under the impression of privilege leave or privilege absence. When there is no evidence and record placed by the petitioner it clearly shows the continuous absence of the petitioner the reasons best known to him as it is within his special knowledge. The continuous absenteeism of the petitioner shows the negligence of the petitioner in discharging his duties. From the respondent standing counsel argument having absented by the petitioner unauthorisedly from duty the respondent have put forth the plea that as the petitioner had been declared as an absconder. It is understandable that the petitioner has remained absent from duty for sufficient and bonafide reasons but such thing was not seen in case of this petitioner-workman.

37. In nutshell the sum and substance of the case from the respondent counsel argument, the petitioner neither submitted explanation within the specified time or attended the enquiry on the schedule date time and place. The petitioner did not submit any representation also to the enquiry officer requesting him to adjourn the enquiry explaining the reasons if any for his inability to attend the enquiry on the scheduled date. Hence the enquiry was conducted exparte. Further though the opportunity, was given by the respondent, but the petitioner has not utilized the opportunity chosen to enter into the witness box. There is also no reason assigned why the petitioner did not enter into the witness box. The petitioner did not submit any medical certificates regard to his sickness to the respondent. Thus there is absolutely no explanation forthcoming for the long absence of the petitioner. Therefore in view of the above facts and circumstances of the case on hand. I see there is every force in the above contentions raised by the respondent in this case. The onus is on the petitioner to prove by leading cogent evidence as regard to the sickness ill-health but not produced the medical certificates and not

examined the doctor to prove whether was examined or not by the doctor about his sickness. There is finding of the respondent that the petitioner set-exparte as he failed and attended substantiate the pleas by leading cogent evidence. Moreover nothing has been shown to me to take a contrary view in this regard. In view of the above discussion in my opinion, the respondent has not committed any error which apparently found on the face of the record and as such, there found no prejudicial irregularity committed by the respondent and the findings given by the respondent is not perverse and baseless. Therefore from all the aforesaid reasons and in the facts and circumstances of the case and also in view of my above discussion with regard to the various facts of the case. Having absented himself unauthorisedly without prior intimation or permission from duty the respondent have put-forth the plea that as the petitioner had been declared as an absconder. The unauthorized absence or non intimation to the concerned authorities would not only cause dislocation of work, but also causes great hardship to the company. It is not a case where the absence was beyond his control. The health of fever sickness problem faced by the petitioner are not so serious and also failure to produce the medical certificates, so as to disable him to intimate his absence well in advance or during the course of absenteeism. While considering the totality of the facts and circumstances, the respondent found that the act of misconduct unauthorized absence for a period of 274 days without prior intimation and permission by the petitioner was serious in nature. I am of the clear view that the petitioner herein has failed to make out any case in his favour and that therefore, there is no need for any interference with the order in this petition. Thus the petitioner fails and the same is liable to be dismissed for want of merits.

38. In the result, the petition is liable to be dismissed and is accordingly dismissed. But in the circumstances, no costs.

Typed to my dictation directly by Typist, corrected and pronounced by me in the open court on this, the 18th day of August, 2007.

M. SHANMUGAM, Chairman-cum-Presiding Officer

Appendix of Evidence

Witnesses Examined

For workman

-Nil-

For Management:

-Nil-

EXHIBITS

For workman :

EX.W-1 Dt.16-8-96 Mercy petition of petitioner

EX.W-2 Dt.31-5-95 Lr.addressed to the Asst. Commissioner @ Mancherial by petitioner

EX.W-3 Dt.5-3-97 Failure report of conciliation and minutes of conciliation proceedings

EX.W-4 Dt.8-2-93 Lr. Addressed to the Medical Superintendent Area Hospital, RG-I, by S.O.M., GDK-No.2 Incline

EX.W-5 Dt.21-9-95 Accident Report (Xerox)

For Management :—

EX.M-1 Dt.17-5-95 Charge Sheet

EX.M-2 Dt.31-5-95 Undelivered returned postal covers with Acks.

EX.M-3 Dt. 25-7-95 Charge Sheet published in Andhra Jyothi Telugu News paper

EX.M-4 Dt.16-8-95 Office Order

Ex. 5 Dt. Enquiry Report

EX.M-6 Dt.31-12-95, 1-1-96 Lr. Issued to the petitioner by General Manager, Ramagundam Area-1

EX.M-7 Dt.8-2-96 un-delivered postal returned cover with Ack.,

EX.M-8 Dt.13-1-96 Paper publication of Andhra Jyothi Telugu newspaper notifying the petitioner to collect a copy of Enquiry Report

EX.M-9 Dt.16-2-96 Dismissal letter issued to the petitioner.

नई दिल्ली, 16 नवम्बर, 2007

का. आ. 3456.—कर्मचारी भविष्य निधि और प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) की धारा 1 की उप-धारा (3) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा बीस या उससे अधिक व्यक्ति नियोजित करने वाले निम्नलिखित प्रतिष्ठानों को सरकारी राजपत्र में इस अधिसूचना के प्रकाशन की तिथि से प्रतिष्ठानों की उस श्रेणी के रूप में विनिर्दिष्ट करती है जिस पर उक्त अधिनियम लागू होगा अर्थात् :—

- (i) भारतीय जीवन बीमा निगम के अलावा जीवन बीमा वार्षिकी इत्यादि प्रदान करने वाली कम्पनियां,
- (ii) निजी विमानपत्तन और संयुक्त उद्यम विमानपत्तन
- (iii) निजी क्षेत्र की इलैक्ट्रानिक मीडिया कम्पनियां; और
- (iv) लॉजिंग हाउस, सर्विस अपार्टमेंट्स और सह-स्वामित्व वाले भवन।

[फा. सं. एस-35012/4/2007-एसएस-11]

गुरजोत कौर, संयुक्त सचिव

New Delhi, the 16th November, 2007

S.O. 3456.—In exercise of the powers conferred by clause (b) of sub-section (3) of Section I of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952), the Central Government hereby specifies the following establishments employing twenty or more persons as the class of establishments to which the said Act shall apply, with effect from the date of publication of this notification in the official Gazette, namely :—

- (i) companies offering life insurance, annuities etc. other than Life Insurance Corporation of India;
- (ii) private airports and joint venture airports;

- (iii) electronic media companies in private sector;
and
(iv) lodging houses, service apartments and condominiums.

[F.No.S-35012/4/2007-SS-II]

GURJOT KAUR, Jt. Secy.

नई दिल्ली, 19 नवम्बर, 2007

का. आ. 3457.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट अथॉरिटी ऑफ इंडिया, नई दिल्ली के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय 2, नई दिल्ली के वंचाट (संदर्भ संख्या आई. डी. सं. 156/2004) को प्रकाशित करनी है, जो केन्द्रीय सरकार को 19-11-2007 को प्राप्त हुआ था।

[सं. एल-11012/10/2004-आई आर (एम.)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 19th November, 2007

S.O. 3457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. No. 156/2004) of the Central Government Industrial Tribunal/ Labour Court II New Delhi now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Airport Authority of India, New Delhi and their workman, which was received by the Central Government on 19-11-2007.

[No. L-11012/10/2004-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-
LABOUR COURT, NEW DELHI

Presiding officer : R.N.Rai

I.D. No. 156/2004

IN THE MATTER OF:

Shri Jagdeep Kumar & Others,

S/o Shri Brahm Prakash,

H.No. F-42, Street No. 16, Sadh Nagar, Palam Colony,
New Delhi - 110045.

VERSUS

The Chairman,

Airport Authority of India,

A.I. Haeadquarter, Rangpuri,

New Delhi - 110037.

AWARD

The Ministry of Labour by its letter No. L-11012/10/2004 (IR(M)) CENTRAL GOVERNMENT DT. 05.10.2004 has referred the following point for adjudication.

The point runs as hereunder:

"Whether the demand of Shri Jagdeep Kumar and others against the Airport Authority of India, New Delhi for regularization in service of 25 workmen in the list enclosed. Engaged in the work of maintenance of CAT-III lighting system on runway is just, valid and legal? If so, to what benefits the workmen concerned are entitled for and what directions are necessary in the matter?"

The workmen applicants have filed claim statement. In the claim statement it has been stated that the respondent is an industry carrying on its business of Air Transport Services under the authority of the General Government.

That the respondent is a statutory body with one or its primary functions being the maintenance of CAT three lightening on main runway, 2nd runway used for take off and landing of the Aeroplanes.

That in order to keep the said runway without any fault, the respondent, after having floated the tenders, awards contract to the AMA Private Ltd who undertake the work of maintenance of CAT three lightening on main runway and second runway.

That the maintenance of CAT three lightening requires the jobs to check bulb to avoid fusing, internal and external cleaning of fillings, internal cleaning of MS Boxes, Transformers, to remove dust, water etc.

That the petitioners referred herein have been working with the respondent for the maintenance of CAT three lightening of main runway and 2nd runway since 2001.

That the aforesaid work of requiring of the maintenance of CAT three lightening is a regular nature of work for which the tenders are invited from the independent contractor having specialization for the work of maintenance of ground lightening facilities at IGI Airport.

That the respondent is having control over the petitioner's subsistence, skill and continued employment.

That the maintenance work of lightening installed in the runway is not a seasonal in nature but a continued work.

That the attendance and the duties of the workers applicants are regulated and controlled by the respondent.

That the mode of applicants-worker's working are regulated and controlled by the respondent.

That the workers-applicants discharge their duties under the supervision and control of the superior officials appointed by the respondent no.1.

That the Contract Labour (Regulation & Abolition) Act 1970 regulates registration of the establishment of principal employer/respondent the contractor/AMA Private Ltd engaging and supplying the contract labour because the same exceeds 20 employees.

That however neither the respondent nor the AMA Private Ltd are having the required registration under the Contract Labour (Regulation Contract Abolition) Act, 1970.

That neither the respondent has obtained any prior permission to engage the contract labour for the work being done by the petitioners nor the appropriate Government has accorded the permission to the respondent to get the work done through contract labour nor there is any sanction about the Contract system in the respondent.

That the provisions of Section 10 of the Contract Labour (Regulation & Abolition) Act, 1970 but embargo upon the respondent to employ the contract labours for the work which is perennial nature.

That in October, 2002, the applicants requested the respondent no. 1 to absorb them in regular service with all benefits available to the other employees in as much as the maintenance of CAT III lighting is a regular nature of work. However, the respondent no. 1 did not agree to regularize them and threatened them to terminate their services if the petitioners do not sign on the fresh appointment letters.

That the workers had filed the civil writ petition no. 616/2002 which was disposed off by Mr. Justice S.K. Mahajan giving liberty to the workers to institute the present claim on the ground that the questions raised in the writ petition cannot be decided in Writ Petition and the same be decided by the Industrial Adjudicator vide order dated 26.3.2003.

That since there was imminent threat to the service of the petitioners; they had no option but to sign the appointment letters showing them in employment from October, 2002 which are Annexure P-81 to P-97. It is pertinent to submit that the petitioners had been working regularly with the respondent no. 1.

That since the service of the applicants have been terminated illegally, unjustifiably exercising unbridled and unguided powers in violation of Section 25 F, 25 N, 25 O and Section 33 of the Industrial Disputes Act, 1947.

It transpires from perusal of the order sheet that the ID case was filed in 2004. The management appeared and after several dates the management failed to file written statement. The case proceeded ex-parte. The workman has filed written brief. The opportunity of filing written statement of the management was closed.

It was submitted from the side of the management that they have been engaged by a contractor AMA Pvt. Limited for performing the work of irregular nature. The workman has filed photocopy of appointment letters B - 24 to B - 262. The workmen have not filed any other document. The appointment letters have been issued to the workmen by the AMA Pvt. Limited for a limited period. The workmen have worked almost for one year through contractor.

It was submitted that the respondent was having control over the petitioner's subsistence, skill and continued employment. It was also submitted that the maintenance work of lightening installed in the runway is not a seasonal nature of work but it is a continued work. The attendance and the duties of the petitioners were being regulated and controlled by Respondent No. 1. Respondent No. 1 regulated and controlled the work of the workmen. The workmen discharged their duties under the supervision and control of the superior officials appointed

by Respondent No.1. The management is not authorized to take the contract labour not being registered under CLRA Act, 1970.

It is settled law that it is the duty of the claimants to establish the averments of their claim statement. It has been stated that they worked under the control and supervision of the management. The control and supervision of the management is to be proved by cogent documentary evidence. It cannot be proved by self serving affidavit. The workmen have not filed any document to show that the duty was assigned to them and their work was controlled by the Administrative Officer of Respondent No.1. It is clear that appointment to the workmen have been given by the AMA Pvt. Limited. There is no proof of the payment made to the workmen by Respondent No.1. Respondent No.2 also has not appeared.

It is not necessary that the management is bound to get its every work done by the regular employees. Contractor's men can be engaged where control and supervision of the management is not required.

My attention was draw to 1999 LLR 433. It has been held in this case that over all control and contractor labours including administrative control rested with the Electricity Board.

The Hon'ble Supreme Court has also emphasized that the Courts/Tribunals in their sympathy for the handful adhoc/ casual employees before it cannot ignore the claims for equal opportunity for the teeming millions of the country who are also seeking employment. In such case, the Courts/Tribunals should adhere to the Constitutional norms and should not water down constitutional requirement in any way.

It has been held (1992) 4 SCC 118. "Regularization Ad hoc/Temporary Government employees - Principles laid down. Those eligible and qualified and continuing in service satisfactorily for long period have a right to be considered for regularization - Long continuance in service gives rise to a presumption about need for a regular post - But mere continuance for one year or so does not in every case raise such a presumption - Government should consider feasibility of regularization having regard to the particular circumstances with a positive approach and an empathy for the concerned person."

In the instant case the workmen have worked only for almost one year and the Hon'ble Apex Court has held that continuance of one year or so does not raise the presumption of regularization.

In (2000) 1 SCC 126 - the Hon'ble Supreme Court has held that there are multiple pragmatic approach/factors which should be considered in deciding employer and employee relationship. According to the criteria there should be control and integration.

In Pollock Law of Torts a servant and an independent contractor has been defined as under :—

The distinction between a servant and a independent contractor has been the subject matter of a large volume of case-law from which the text-book writers on torts have attempted to lay down some general tests. For example, in

Pollock's Law of Torts, (Pages 62 & 63 of Pollock on Torts, 15th Edn.) the distinction has thus been brought out:

"A master is one who not only prescribes to the workman the end of his work, but directs or at any moment may direct the means also, or, as it has been put, retains the power of controlling the work, a servant is a person subject to the command of his master as to the manner in which he shall do his work..... An independent contractor is one who undertakes to produce a given result but so that in the actual execution of the work is not under the order or control of the person for whom he does it, and may use his own discretion in things not specified beforehand....."

In Salmond's Treatise on the Law of Torts the distinction between a servant and independent contractor has been indicated as under:—

"What then, is the test of this distinction between a servant and an independent contractor? The test is the existence of a right of control over the agent in respect of the manner in which his work is to be done. A servant is an agent who works under the supervision and direction of his employer; an independent contractor is one who is his own master. A servant is a person engaged to obey his employer's orders from time to time; an independent contractor is a person engaged to do certain work, but to exercise his own discretion as to the mode and time of doing it—he is bound by his contract, but not by his employer's orders."

The test regarding independent contractor and intermediaries have been laid down in *Hussainabhai, Calicut v. Alath Factory Thezhilali Union Kozhikode* [AIR 1978 SC 1410 (3 Judges)] "the true test may, with brevity, be indicated once again. Where a worker or group of workers labours to produce goods or services and these goods or services are for the business of another, that other is, in fact, the employer. He has economic control over the workers subsistence, skill, and continued employment."

My attention was drawn to the Constitution Bench Judgment in *Scale (2006) 4 Scale*. It has been held in this case as under:

"A. Public employment in a sovereign socialist secular democratic republic has to be as set down by the Constitution and the laws made there under. Over constitutional scheme envisages employment by the Government and its instrumentalities on the basis of a procedure established in that behalf. Equality of opportunity is the hallmark and the Constitution has provided also for affirmative action to ensure that unequals are not treated equals. Thus, any public employment has to be in the terms of the constitutional scheme."

B. A sovereign government, considering the economic situation in the country and the work to be got done, is not precluded from making temporary appointments or engaging workers on daily wages. Going by a law newly enacted, the National Rural Employment Guarantee Act, 2005, the object is to give employment to at least one member of a family for hundred days in an year, on paying wages as fixed under that Act. But, a regular process of recruitment or appointment has to be resorted

to, when regular vacancies in posts, at a particular point of time, are to be filled up and the filling up of those vacancies cannot be done in a haphazard manner or based on patronage or other considerations. Regular appointment must be the rule.

From perusal of the above judgment it becomes quite obvious that for master and servant relationship there should be control and supervision of the management and the management should have control over subsistence, skill and continued employment of the workmen.

In the instant case no document regarding economic control and works control over subsistence, skill and continued employment has been filed.

The workmen have worked simply for one year on the appointment letter given by the Respondent No. 2, the private contractor. Contract labour can be employed where no control over subsistence, skill and continued employment is not required.

In the instant case the private contractor has undertaken the maintenance of runway and the lightening system. Control of the management is not required in such nature of work. The workmen have failed to prove the averments of their claim statement. In 2006 (4) *Scale* the Constitution Bench of the Supreme Court has held that the Courts and Tribunals in their sympathy for needful adhoc/casual/contractual employees before it cannot ignore the claims for equal opportunity for the teeming millions. The Constitution Bench has further held that there can be no regularization of temporary, adhoc and contractual workmen.

From perusal of the judgment referred to above it becomes quite obvious that the control and supervision are essential elements for establishing master and servant relationship. A master is one who decides not only what is to be done but also how it is to be done. In the instant case the contractor decided what is to be done and how it is to be done. No documents regarding assignment of duty, control over the work of the workmen and supervision has been filed. The contractor engaged the workmen and he deputed them for maintaining the lightening the runway. Control and supervision and integration are the essential tests for the proving employer-employee relationship. There is no such proof in this case. It has been also held that one year or two years work cannot be deemed to be justified for regularization. Regularization has been banned by *Uma Devi's case*. In view of the facts and circumstances of the case the workmen do not deserve regularization.

The reference is replied thus:

The demand of Shri Jagdeep Kumar and others against the Airport Authority of India, New Delhi for regularization in service of 25 workmen in the list enclosed engaged in the work of maintenance of CAT-III lightning system on runway is neither just nor valid nor legal. The workmen applicants are not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 6-11-2007.

R. N. RAI, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2007

का.आ. 3458.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माइन्स लिमिटेड, ऑर्गाम के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या सी.आर.संख्या 182/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-2007 को प्राप्त हुआ था।

[सं. एल-43012/9/96-आई आर(एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 19th November, 2007

S.O. 3458.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. C.R. No. 182/1997) of the Central Government Industrial Tribunal Labour Court, Bangalore now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd., Oorgaam and their workmen, which was received by the Central Government on 19-11-2007.

[No. L-43012/9/96-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE-560022.

Dated the 31st October, 2007

PRESENT

SHRI A. R. SIDDIQUI, Presiding officer

C. R. No. 182/1997

I Party	II Party
The Vice President, Bharat Gold Mines Association No. 545, Opposite to Punjabi Quarters, OORGAUM K. G. F. - 563120	The Managing Director, Bharat Gold Mines OORGAUM K. G. F. - 563120
AWARD	

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-43012/9/96-IR (M) dated 21st November, 1996 for adjudication on the following schedule :

SCHEDULE

"Whether the management of Bharat Gold Mines Ltd. is justified in dismissing Shri Thangaraj. Clerk. Nandydroog Mines from service w.e.f. 16-01-1980 for alleged manipulation of Shift registers? If not, to what relief he is entitled to and from which date?"

2. The case of the first party union, espousing the cause of Shri Thangaraj (since deceased, LRs are brought on record) in brief, is that the enquiry proceedings conducted against the deceased workman (herein after referred to as first party) suffered from violation of principles of natural justice as no proper opportunity was given to him to participate and defend himself during the course of enquiry (pleadings with respect to validity and fairness or otherwise of the enquiry proceedings omitted there being a separate finding on the point). As far as findings of the enquiry officer is concerned, it was contended that the enquiry officer being an officer of the management company was very much biased and erred extensively while drawing his findings in favour of the management and in coming to the conclusion that the first party workman was found guilty of 3 charges out of 8 charges leveled against him. It was also contended that the disciplinary authority without proper application of the mind and without taking into account the blemishless service of the first party proposed to impose the economic death punishment of dismissal and confirmed the same despite the proper explanation given by the first party spreading over 14 pages. His appeal against the dismissal order was also dismissed by the Appellate Authority hastily within a period of 3 days without giving sufficient reasonings; that the first party without knowing the proper forum to seek redressal for the injustice caused to him filed a civil suit in OS No. 325/1980 praying to quash the dismissal order passed against him and to reinstate him in service with all consequential benefits. However, the Civil Court after due trial of the matter for a period of 10 years from the date of filing of the suit dismissed the same on 20-09-1990. He preferred an appeal in AA No. 64/1990 and the Civil Judge, KGF confirmed the order of trial court with a slight modification "that the dismissal of the suit and the appeal shall not preclude the plaintiff from seeking any other remedy, if he has, in accordance with law". However, the first party not taking the hint given by the Civil Court to seek remedy under the Industrial Disputes Act, preferred a regular second appeal before the High Court in No. 332/1993 which again came to be dismissed by the High Court confirming the order of Civil Court with the observation that "if the appellant has any other remedy he is entitled to prosecute the same". This judgment of the Honble High Court came to be passed on 28-08-1995. Thereupon, he raised the dispute through union before the ALC. KGF on 22-1-1995 and at the result of the failure of the conciliation proceedings, the present reference has been made to this court. Therefore, he requested this tribunal to exercise its powers and jurisdiction under Section 11A of the ID Act by setting aside the dismissal order by reinstating him in service with all consequential benefits.

3. The management by its counter statement, while, taking up the contention that in a Civil suit before the learned additional Munsiff Court, KGF, the first party had challenged the enquiry proceedings as well as the dismissal

order and it is after due trial of the case by considered judgment his suit came to be dismissed and therefore, once again the first party cannot agitate the question of validity or otherwise of the enquiry proceedings and so also enquiry findings as well as the dismissal order. The management also contended that the first party union cannot take shelter under the civil litigation initiated by him for delay in challenging his dismissal from the service and therefore, his present dispute under the industrial disputes Act, being filed before this tribunal after the gap of more than 15 years cannot be entertained and is liable to be dismissed on the ground of delay itself. The management also contended that the enquiry findings given by the enquiry officer were at the result of sufficient and legal evidence and the dismissal order passed against him by the Disciplinary Authority carefully considering the various aspects of the case was proper and legal and so also punishment of dismissal was justified and commensurate keeping in view the gravity of the charges of misconduct leveled against the first party. Therefore, the management contended that the circumstances of the case do not warrant this court to exercise its jurisdiction under Section 11 A of the ID Act and to interfere with the order of dismissal passed against the first party.

4. Keeping in view the respective contentions of the parties, this tribunal on 12-11-1998 framed the following preliminary issue.

"Whether the Second Party proves that it had conducted the Domestic Enquiry against the first party workman in accordance with law, standing orders and principles of natural justice"

5. During the course of trial of the said issued the management examined one witness as MW1 and got marked 7 documents at Ex. M1 to M7 including the charge sheet, the enquiry proceedings, the enquiry officer's findings and the show cause notice issued to the first party on those findings. There was no evidence led on behalf of the first party.

6. After having heard the learned counsel or the management (learned counsel for the first party retired for want of instructions with due notice to the deceased workman) this tribunal by order dated 10-01-2006 recorded a finding on the above said issue holding that the DE conducted against the first party by the Second party is fair and proper Thereupon, the case underwent several adjournments to hear the parties on merits of the case i.e. on the alleged perversity of the findings and the quantum of the punishment. However, the first party though was served with notice by his advocate under registered post did not turn up and ultimately this court heard the learned counsel for the management and posted the matter for award.

7. Therefore, in the light of the finding recorded by this tribunal on the aforesaid preliminary issue holding that the Domestic Enquiry held against the first party was

fair and proper, the only point to be considered by this tribunal would have been as to whether the findings of the enquiry officer holding the first party guilty of the charges suffered from any perversity and if not, whether the punishment of dismissal passed against him was excessive and disproportionate to the gravity of the charge of misconduct committed by him. There are no arguments advanced on behalf of the first party highlighting any legal or factual defects so as to substantiate his case that findings of the enquiry officer suffered from perversity and though the learned counsel for the management supported the findings as such, this court though it proper and necessary to go through the findings and the evidence brought on record during the course of enquiry by itself to answer the above said two points.

8. From the perusal of the enquiry findings and the oral and documentary evidence pressed into service by the management during the course of enquiry, one cannot agree to the various contentions taken by the first party union in the claim statement attacking the enquiry findings. The learned enquiry officer after having discussed at length the oral and documentary evidence produced by the management and so also taking into consideration the defence put forth by the first party took pains to appreciate the aforesaid evidence in its proper perspective and after having discussed the same threadbare, rightly came to the conclusion that out of the 8 charges leveled against the first party, five of them have not been proved having given benefit of doubt to the concerned first party, he gave the finding that five of those charges have not been proved. A meticulous scrutiny of the oral and documentary evidence and the reasons assigned by the enquiry officer while giving the findings would make it abundantly clear that his finding on the aforesaid 3 charges has been supported by sufficient legal oral and documentary evidence. He also considered the various points raised by the first party by way of defence and met them by giving his reasonings at page 10 of the finding as under :-

"Coming to the first point as already discussed since there was no evidence of Shri Thangarajan's handling the pay rolls Nos. 17A for May 1978 April 1979 and June 1978 and pay roll for April 1978 Book No.6 and pay roll for September 1977 Book No.6. I have given the benefit of doubt in his favour. But there is evidence to show that he handled the pay rolls for March 1978, Book No.8, Pay Roll of June 1978, Book No. 6 and pay roll for April 1978, Book No.8. These pay roll were handled by Shri Thangarajan while calling out and checking the incentive bonus figures. Coming to the next point, the charge that Shri Thangarajan had manipulated the incentive bonus figures for the said 3 months has been proved as discussed above and hence there is no merit in this contention in so far as these 3 charges are concerned."

9. Therefore, having regard to the oral and documentary evidence produced during the course of enquiry and the valid and cogent reasonings given by the enquiry officer in recording his findings with regard to the 3 charges leveled against the first party, by no stretch of imagination it can be said that enquiry findings suffered from any perversity, as, far as those three charges.

10. Now, coming to the quantum of the punishment. Having regard to the nature of the misconduct committed by the first party, his unblemished service record all along except the case on hand, the fact that he has been exonerated by the enquiry officer for the major items of the charges of misconduct and so also taking into consideration that the first party has no any further chance to be in the service of the management since expired on 11-04-2004, it appears to me that ends of justice will be met if the LR's of the deceased workman are granted some reasonable reliefs with respect of backwages, continuity of service and other consequential benefits. As seen above, the first party litigated before the wrong forum for about a period of 15 years i.e. right from the year 1980 till the judgement of the Hon'ble High Court rendered in the year 1995. For this period of litigation certainly there cannot be any relief with regard to the backwages to be granted to him particularly in view of the fact that the point of jurisdiction was raised by the management at the earliest point of time before the Munsiff Court with a specific contention that the first party has got the remedy only by way of dispute to be raised under the Industrial Disputes Act and not before the Civil Court. The first party as noted above, did not take the hint or become conscious to this objection raised by the management even after the Civil Court made an observation that despite dismissal of the suit he can avail any other remedy available to him. Not caring for those observations of the Civil Court, he once again moved to the High Court by way of second appeal and it is only after the dismissal of the said appeal he raised dispute with the ALC concerned. For these periods of 15 years, the first party litigated before the wrong forum despite being brought to the notice by the management as to where his remedy actually lies. Therefore, this tribunal will not be justified in awarding him any back wages for the above said period i.e. from the date of his dismissal from service till he raised the dispute before the ALC on 22-11-1995. Now, coming to the period subsequent to the date 1-12-1995 the first party in my opinion is liable to be punished for the misconduct committed by him withholding his back wages to the extent of 25% of his last drawn wages with continuity of service and other benefits. Hence the following award:

AWARD

The management is directed to pay the first party 75 per cent of the back wages (at the rate of his last drawn wages) w.e.f. 1-12-1995 till the date he attained the age of superannuation or till the date of his death i.e. 11-1-2004

whichever is earlier with all consequential benefits including continuity of service. The amount due to him shall be paid to his LR's within a period of six months from the date of publication of this award or else it shall carry the interest at the rate of 10 per cent per annum till its realisation. No costs.

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2007

का.आ. 3459.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत गोल्ड माईन्स लिमिटेड, ऑर्गाम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या सी.आर.संख्या 22/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-2007 को प्राप्त हुआ था।

[सं. एल-43011/2/2003-आई आर(एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 19th November, 2007

S.O. 3459.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. C.R.No. 22/2003) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bharat Gold Mines Ltd., Oorgaum and their workman, which was received by the Central Government on 19-11-2007.

[No. I-43011/2/2003-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE-560022.

Dated 25th October, 2007

PRESENT

SHRI A. R. SIDDIQUI

Presiding Officer

C. R. No. 22/2003

I Party

The President,
BGM General Workers Union
Oorgaum Post,
CITU Office, Marikuppam
KGF 563119
Kolar Gold field

II Party

The Managing Director,
Bharat Gold Mines Limited,
Kolar Gold Field-563 120.

APPEARANCES

I Party

: Shri K.V. Satyanarayana
Advocate

II Party

: Shri T. Raja Ram
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of Sub-section (1) and Sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute *vide* Order No. L-43011/2/2003—IR(M) dated 24-04-2003 for adjudication on the following schedule :

SCHEDULE

“Whether the management of Bharat Gold Mines Ltd., is justified in dismissing Mr. C.P. Carrol, Foreman from services w.e.f. 8-5-2001? If not what relief the workman is entitled to and from which date?”

2. A charge sheet dated 20-04-2000 came to be issued against the first party in the following terms :

“It is reported that had involved in theft of employer's property, in that, on 14-3-2000, while searching you/your trouser at NGS searching room at about 8.45 p.m. you has taken out one bundle (GBQ approximate weight 75 grams) from you back side hip and threw it by your left hand which has fallen by the side of zinc sheet and pushed the Punjabi SD Watchman No. 480 Ramlal, to get decamped.

The above action/s on your part constitute/s misconduct/s under Clause 5(2) of BGML Employees' CDA Rules.

A copy of the complaint received in this connection is enclosed herewith.

You are, therefore, required to submit your written explanation to the undersigned within 7 days from the date of receipt of this charge sheet.

As to why action should not be taken against you for the above misconduct/s, failing which it would be deemed that you have no explanation to offer and the matter will be proceeded with, further.”

3. The reply given by the first party dated 24-04-2000 denying the allegations made in the charge sheet not getting favour with the Disciplinary Authority, a Domestic Enquiry was conducted against the first party and on the basis of the Enquiry Findings holding him guilty of the charges of theft alleged against him, punishment of dismissal was proposed against him by way of notice along with the enquiry report and there after having given the first party an opportunity of hearing, he was dismissed from service.

4. The first party by way of his claim statement contended that he was not given reasonable opportunity to defend his case at the time of the enquiry and to cross-examine the management witnesses and that none of the contents of the documents have been proved in the enquiry. Therefore, the enquiry is vitiated and not sustainable in the eye of law: that the first party has also given his statement during the course of enquiry disputing the allegations made against him and that the Enquiry Findings holding him guilty of the charges is not based upon the evidence brought on record much less without giving any reasons as to why the defence taken by the first party and

the evidence of various witnesses produced by him during the course of enquiry were not believed. Therefore, he contended that the enquiry was bad in law and the findings of the enquiry holding him guilty of the charges suffered from perversity and that punishment of dismissal passed against him based on such findings was not sustainable and that punishment of dismissal was disproportionate to the gravity of the misconduct alleged against him. He also contended that for the very same, charge of theft, the management lodged a complaint with the Police resulting into a Criminal Case and after due trial, the competent Magistrate Court has acquitted him by judgement dated 30-10-2001. He contended that before the trial court five witnesses were examined and the court held that the charges of theft against the first party have not been proved. Therefore, he contended that in the light of the judgement of the competent Criminal Court acquitting him from the charges of theft, Honorably, the dismissal order passed against him cannot be sustained in the eye of law keeping in view the principle laid down by the Hon'ble Supreme Court of India in Paul Anthony case reported in 1999 (82) FLR 627. He contended that the impugned punishment order passed against him hurriedly without waiting for the results of the Criminal proceedings was vindictive and predetermined by the management and therefore on this count itself dismissal order is liable to be set aside. Therefore, he requested this tribunal to pass an award by setting aside dismissal order with a direction to the management to reinstate him into service in his original post with continuity of service, full backwages and all other consequential benefits.

5. The management by its Counter Statement, in the first instance, took up the contention that the management company having incurred loss consistently, its case was referred to the BIFR which formed the opinion recommending winding up of the company. The matter has been referred to the High Court of Karnataka and the same is pending in Co.P.No. 180/2000. In the meanwhile, Government of India vide its order dated 29-01-2001 has passed the orders for closure of the company under section 25 (O) of the ID Act and therefore, the management has been closed w.e.f. 01-03-2001. Therefore, the management contended that in view of the winding up proceeding pending before the High Court, no relief can be granted to the first party and if granted it would be redundant not being capable of implementing and hence reference is liable to be rejected. While, meeting the case of the first party as made out in the claim statement, the management gave the details of allegations made in the charge sheet against the first party at Para 4 of the Counter Statement and further contended that after the receipt of the reply given by the first party in denying the charges and the Disciplinary Authority not being satisfied with the said explanation, a Domestic Enquiry was conducted against him giving fair and reasonable opportunity to participate and defend himself and it is on the conclusion of the enquiry, Enquiry Findings were submitted based on the oral and documentary evidence produced during the enquiry holding the first party guilty of the charges and there upon a second show cause notice was issued to the

first party proposing the punishment asking him the explanation on the Enquiry Report sent to him along with the said notice. Since, the first party failed to give any explanation in response to the notice. Since, the first party failed to give any explanation in response to the notice, the Disciplinary Authority after going through the entire enquiry file found no reasons to alter the punishment of dismissal already proposed and therefore by order dated 08-05-2001 confirmed the said punishment. In the meanwhile, the management received a letter from the first party and since by that time dismissal order was already passed against him his explanation was not considered. Therefore, the management contended that the enquiry held against the first party was fair and proper, the findings of the enquiry officer holding him guilty of the charges was legal and perfect, the management was justified in imposing the order of dismissal having regard to the gravity of the misconduct committed by him. While, giving reply to the contention of the first party that he has been acquitted by a competent Criminal Court for the very same charge of misconduct, the management contended that the acquittal in favour of the first party will not come in the way of the management, particularly, in view of the fact that in the Criminal proceedings charges were to be proved beyond doubt and whereas in a Departmental Proceedings it was required to be proved only on the basis of the probabilities, moreover, the management had no control over the manner in which the criminal trial was conducted by the state and therefore the acquittal order in favour of the first party cannot be a cause to set aside the Departmental Proceedings which have already assumed the finality before the Criminal Proceedings were ended. In the result, the management requested this tribunal to reject the reference.

6. Keeping, in view the respective contentions of the parties with regard to the validity of fairness of the enquiry proceedings this tribunal on 31.08.2004 framed the following preliminary issue:

“Whether the Domestic Enquiry conducted by the I Party against the I Party is fair and proper?”

7. During the course of the trial of the said issue, the management examined Enquiry Officer as MW 1 and got marked six documents at Ex M 1 to Ex M-6 and first party got himself examined as WW 1 and without producing any documents. After hearing the learned counsels for the respective parties this tribunal by order dated 31.08.2006 recorded finding on the above said issue in favour of the management holding that the Domestic Enquiry held against the first party was fair and proper. There upon, I have heard learned counsels for the respective parties on merits of the case i.e., on the point of alleged perversity of the findings and the quantum of the punishment.

8. Learned Counsel for the management was not available when the case was taken up for his arguments, whereas, learned counsel for the first party in his arguments, vehemently, submitted that the findings of the Enquiry Officer suffered from perversity as he failed to give valid and cogent reasoning's in believing the testimony of the management witnesses and at the same time not taking into account the defence evidence lead by the first party. He contended that the most important fact of the recovery

of the alleged theft property itself from the person of the first party has not been proved as undisputedly the contraband was said to be lying on the floor (Shaft) of the management company 15 ft. away from the place the first party was standing while his search was being made. He submitted that almost all the witnesses were the official witnesses and except the witness by name Ramlal, who is said to have taken search of the first party and made a complaint against him, none of them was an eye witness and that the evidence of the said Ramlal was not trust worthy being contrary to and against the very contents of the complaint he made against the first party. He also contended that as per the Mahazar witness MW 3, he was not present at the time of conducting the Mahazar and that Mahazar was also not prepared in the presence of the first party nor he was furnished with the copy of the Mahazar much less there is no mention of the date on which day Mahazar was drawn. He contended that the other witness by name Reddy was not present on the spot and Mahazar was not drawn in his presence. He took the court through the statements of Ramlal in his cross-examination so as to point out the contradictions in his statement in comparison to his complaint allegations. Learned Counsel further submitted that the Enquiry Officer conveniently ignored the evidence of several witnesses produced by the first party who spoke to the fact that in their presence only search of the first party was taken place and the theft property in question was not recovered from the person nor they saw the first party taking out the said property from bottom of his hips and then throwing it away so as to be picked up by Mr. Ramlal to say that first party committed theft. Therefore, learned counsel submitted that the findings of the Enquiry Officer suffered from perversity for the aforesaid reasons narrated by him. Learned Counsel for the first party then challenged the dismissal order passed against the first party on the ground that on the very same set of facts evidence and charge of theft Criminal Prosecution was launched against the first party and after due trial of the said case the competent Magistrate Court by judgement dated 30-10-2001 acquitted the first party from the charge of theft honorably and therefore, in the light of the aforesaid decision of their lordship of Supreme Court in Paul Anthony case dismissal order passed against the first party is liable to be set aside. After having gone through the findings of the Enquiry Officer and the oral and the documentary evidence produced by both the parties during the course of the enquiry, I find substance in the arguments advanced for the first party. In the case where a charge of theft is alleged against the delinquent, the most important factors to be established by the prosecution authority would be the direct evidence to show that the delinquent was caught red handed or was apprehended while committing theft of the property. The next evidence to establish the charge of theft would have been to the effect that the theft property in question was recovered from the person of the delinquent. In the instant case undisputedly it is not the case of the management that the first party was caught red handed while committing the theft or was apprehended while carrying the theft property. It is the case of the management that when a routine personal search was taken up by the above said

witness Ramlal, the then Watchman he saw the first party throwing away the contraband after having taken it out from the Bottom of his hips and there after he called the other Watchmen, Security Officer etc., and told them about the said fact. Therefore, in the present case both the above said important factors are missing. Neither the first party was caught red handed nor was apprehended committing the theft of the property or found carrying the same at the relevant point of time. He was also not found with the possession of the property when the personal search was taken. It is said that property was thrown out by the first party and was lying near the Zinc Sheet on the floor/shaft 15 ft. away from the place first party was standing and therefore Mr. Ramlal suspected the first party for having committed the theft and was thrown out the said property while his search was going on. It was well argued for the first party that the statement of Mr. Ramlal who is the only eye witness to the incident first of all does not inspire confidence in the mind of the court for the simple reason that if really the first party was carrying the theft property on person that too having kept it at the bottom of his hips he will not have any scope or chance to have thrown away the said property for having taken out of bottom of his hips when his personal search was being conducted by the said witness Ramlal. Moreover, as has come in the evidence it cannot just be believed that first party could have thrown away the property for having taken out from his person as admittedly has come in the evidence of management witnesses that he was holding a cap lamp belt and helmet in his left hand and a book in his right hand. It just cannot be just believed that the first party under the aforesaid circumstances could have thrown away the said property at a distance of about 15 ft. from the place he was standing. Therefore, this solitary statement rather the self serving statement of the witness Ramlal could not have been taken to be the Gospel truth and a conclusive proof to speak to the charge of theft against the first party as the evidence of other witnesses was just a hear say evidence as they came to the spot after being called by Mr. Ramlal and then were told about the alleged incident. Moreover as argued for the first party, he by way of defence had examined on his part witness by name Sri Kumar, P E No. 118822, B B C Operator, Kothadapani, P E No. 160532, Jaffar Pasha another P E, Muniraj one more P E and one Thangaraja, EGM and the perusal of the statements of this witness during the course of enquiry would disclose that it is in their present the personal search of the first party was being done by the witness Ramlal and they never happened to see the first party throwing away the property in question. According to them also property was lying somewhere near the Zinc Sheet 15 ft. away from the place the first party was standing. It is interesting to note that though the Enquiry Officer in his finding discussed the evidence given by Mr. Ramlal and acted upon his sole testimony coupled with the Mahazar in coming to the conclusion that the first party threw away the property from out of his person, did not discuss in single word the evidence given by the defence witnesses. While giving his reasonings, he uttered not single word as to why the testimony of this defence witnesses disputing the statement of Mr. Ramlal that the

first party threw away the property in question was not trust worthy or that it was liable to be discarded for some reason or the other. Secondly, as argued for the first party, Mahazar said to have been drawn for the seizure of property in question has no legal sanctity in view of the admitted fact that the property in question was not seized from the person or from the custody of the first party. In the result, there cannot be any hesitation in the mind of this tribunal in coming to the conclusion that the evidence which was pressed into service by the management during the course of enquiry was not legal and sufficient so as to connect the first party with the guilt. Therefore the Enquiry Findings cannot be said to be based on legal and sufficient evidence and hence are liable to be set aside as suffering from perversity.

9. Even assuming for a movement that the Enquiry Findings are not suffering from the perversity, as argued for the first party, the dismissal order passed against him cannot be maintained and sustained in the eye of law in the light of the judgement of the competent Criminal Court acquitting the first party for the very same charge of theft based on the very same set of evidence and the facts. As could be read from the aforesaid judgement dated 30.10.2001, copy of which has been filed before this tribunal, the prosecution in this case examined five witnesses and got marked six documents at Ex P1 to Ex P6 and the property at M 01. The above said Mr. Ramlal though was cited as a witness in the charge sheet (CW2) was not examined before the trial court. The learned Magistrate in his concluding para at Page 4 of the judgement observed as under:

"It is pertinent to note that the prosecution in this case has failed to prove the seizure Mahazar. Apart from this there are no independent witnesses to the said seizure Mahazar. Thus it is well settled principle of law that when the witnesses are all prosecution officials, their evidence cannot be believed unless there is corroboration by any independent witnesses. In the instant case also all the witnesses examined by the prosecution belong to BGML Company; None of the independent witnesses have been examined on behalf of the prosecution. Hence this creates a doubt in the mind of the court about the genuineness of its case. Hence accused in this case are entitled for acquittal. Hence I answer point No.1 in the negative."

10. Therefore from the perusal of the above judgement and the reasonings given by the Magistrate it becomes crystal clear that the acquittal of the first party was not on the ground that the prosecution failed to establish the case beyond reasonable doubt or that first party was being given acquittal by extending him the benefits of doubts. As could be read from the operative portion of the judgement, the acquittal in question was by way of honorable acquittal and not on the ground benefit of doubt. Therefore as argued for the first party when the first party was charged for the very same misconduct of theft by way of Criminal Prosecution and he has been acquitted by competent Criminal Court based on the very same set of facts and the set of evidence, the dismissal order passed against him cannot be sustained in the eye of law. Their Lordship of Supreme Court in a decision reported in 2006 III LLJ Page

1075 (SC) – Tank G Mvs. State of Gujarat and others referred to a decision in Paul Anthony case at para 22 as under:

“Para 22: In the case of Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. and Another (supra), the question before this Court was as to whether the departmental proceedings and the proceedings in a criminal case launched on the basis of the same set of facts can be continued simultaneously. This Court held as under:

“There is yet another reason for discarding the whole of the case of the respondents. As pointed out earlier, the criminal case as also the departmental proceedings were based on identical set of facts, namely ‘the raid conducted at the appellant’s residence and recovery of incriminating articles therefrom’. The findings recorded by the enquiry officer, a copy of which has been placed before us, indicate that the charges framed against the appellant were sought to be proved by police officers and panch witnesses, who had raided the house of the appellant and had effected recovery. They were the only witnesses examined by the enquiry officer and the enquiry officer, relying upon their statements, came to the conclusion that the charges were established against the appellant. The same witnesses were examined in the criminal case but the Court, on a consideration of the entire evidence came to the conclusion that no search was conducted nor was any recovery made from the residence of the appellant. The whole case of the prosecution was thrown out and the appellant was acquitted. In this situation, therefore, where the appellant is acquitted by a judicial pronouncement with the finding that the ‘raid and recovery’ at the residence of the appellant were not proved, it would be unjust, unfair and rather oppressive to allow the findings recorded at the ex parte departmental proceedings to stand.”

11. The principle laid down by their lordship in the aforesaid decision applied to the facts of the present case on all its fours. In the instant case, the charge of misconduct, the fact of the case of the said all evidence involved during the course of Departmental Proceedings and during the course of Criminal Proceedings were one and the same. As noted above the acquittal of the first party is not merely on benefit of doubt but by way of honorable acquittal. Therefore, having regard to the aforesaid principles of law laid down by Apex court the dismissal order passed against the first party cannot be sustained in the eye of law and accordingly is liable to be set aside on this count as well as in the light of my finding recorded above to the effect that the findings of the Enquiry Officer suffered from perversity not to be found basis for the order of dismissal passed against the first party.

12. Now, coming to the question of relief to be granted to the first party, the defence taken by the management that the management company has come to be closed w.e.f. 01-03-2001 under the orders of the Government of India dated 29-01-2001 has not been denied or disputed by the first party. Therefore, question of granting him relief of reinstatement does not arise. Now coming to the question of backwages there are no valid reasons or explanation offered by the first party as to why

he failed to raise the dispute with the authority concerned immediately after his dismissal from the service. He was dismissed from service by order dated 08-05-2001 and where as he appears to have raised the dispute some where in the year 2003 and reference is made to this tribunal by order dated 24-04-2003. Therefore, he cannot be granted any backwages for the period in between 08-05-2001 and 24-04-2003. As could be read from the contention of the management at para 1 of its counter statement though as per the Government of India order the management was closed w.e.f. 01-03-2001, the unions representing the workmen challenged the said order of the Government of India and the order of reference by BIFR in W.P. 1343/2004 and hon’ble High Court allowed the said W.P., the management then preferred Writ Appeal and the Division Bench of the High Court set aside the order passed by the High Court sitting in the Single Judge Bench by order dated 26-09-2003 and further proceedings with regard to winding up are still going on. Therefore, it cannot be said that the management company has been closed for all practical purposes. In the result under the facts and circumstances of the case, it appears to me that ends of justice will be met if the first party is granted backwages at the rate of 50% from the date of the reference before this tribunal i.e., 24-04-2003 till date of passing of this award with continuity of service and other consequential benefits. Hence, the following order:

ORDER

The management is directed to pay 50% of the backwages last drawn by the first party from 24-04-2003 till the date of this award with continuity of service and other consequential benefits. No orders to cost.

(Dictated to U.D.C. transcribed by him, corrected and signed by me on 25th October 2007)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 19 नवम्बर, 2007

का.आ. - 3460.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एयरपोर्ट अथोरिटी ऑफ इंडिया, नई दिल्ली के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय 2, नई दिल्ली के पंचाट (संदर्भ संख्या आई.डी. सं.-111/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-11-2007 को प्राप्त हुआ था।

[सं. एल-11011/22/2002-आई.आर.(एम.)]
एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 19th November, 2007

S.O. 3460.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. No. 111/2003) of the Central Government Industrial Tribunal-Labour Court, II, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers

in relation to the management of Airport Authority of India, New Delhi and their workmen, which was received by the Central Government on 19-11-2007.

[No. L-11011/22/2002-IR(M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM- LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER: R. N. RAI

ID. NO 111/2003

In The Matter of:

Shri Udai Bhan & 3 Ors.,
APS & SSW Employees Union (Regd.),
SO 5/24, Nehru Ekta Colony,
Sector-VI, R. K. Puram,
New Delhi

VERSUS

The General Manager,
Electrical Engineering,
AAI, Rajiv Gandhi Bhawan,
New Delhi-110037.

AWARD

The Ministry of Labour by its letter No. L-11011/22/2002 IR(M) Central Government Dt. 29-7-2003 has referred the following point for adjudication.

The point runs as hereunder :-

"Whether the demand of the contract labourers namely S/Shri Udai Bhan, Pump Operator, Ashok Kumar Mishra, Pump Operator, Anil Kumar Singh, Pump Operator and Shri Pati Ram, Helper relating to regularization of their services in the establishment of AAI, New Delhi is just, fair and legal? If not, what relief these workmen are entitled and from which date?"

The workmen applicants have filed claim statement. In the claim statement it has been stated that the workmen S/Shri Udai Bhan, Ashok Kumar Mishra, Anil Kumar Singh, and Shri Pati Ram, are working with M/s. AAI AS Pump Operators and Helpers respectively and diligently. The details/particulars of these workmen are as under :-

Name	Designation	Dt. of Joining	Salary P.M.
Udai Bhan	Pump Operator	17-5-1995	Rs. 2,792
Ashok Kr. Mishra	-Do-	02-04-1994	Rs. 2,792
Anil Kr. Singh	-Do-	14-07-1997	Rs. 2,792
Pati Ram	Helper	26-04-1998	Rs. 2,792

That the management of M/s. AAI has got full control and supervision over the work done by these workmen but the management as per its unfair labour

practices is showing these workmen on the roll of Contractors and in connivance with those contractors, it is playing these workmen much below the rate of wages and allowances of likewise workmen directly shown on the roll of the management.

That the work performed by these workmen is of perennial in nature and they are doing their duties continuously for the last many years without any interruption into the service and the existence of the work will continue as long as the management continues to exist. The workmen have been continuously demanding their regularization into the direct service of the AAI and for payment of wages and allowances at par with other likewise categories of workmen of the management and when the management gave no response to the demand of workmen, they through their union served a demand notice dated 15-04-2002 upon the management and when even after the stipulated period of demand notice, the management gave no response to the demand of workmen the union took up their case before the RLC(C), New Delhi and on the failure of conciliation proceedings the present reference before this Hon'ble Tribunal.

That despite the change of contractors from time to time the workmen have continued working with the respondent and they had also taken up their case before the Hon'ble High Court of Delhi in CPW No. 6161/99 and CWP No. 7211/2000 but the Hon'ble High Court of Delhi had disposed off those petitions with a liberty to the workmen to file their case before the appropriate forum i.e. RLC (C) from where this case has come for adjudication to this Hon'ble Tribunal.

That the workmen are legally entitled for their regularization into the service of the AAI and for payment of wages and allowances at par with the other likewise categories of employees directly employed by the AAI for the date of their joining the service with arrears.

That during the pendency of the present case before the Hon'ble High Court the management had been continuously pressuring the workmen to not to take up their case in the court and to settle the matter as per the dictates of management and when the workmen did not agree to same, the management has terminated the services of the workmen by way of not allowing them to resume duty w.e.f. 28-10-2003 even without any notice and with making payment of their earned wages and other legal dues. The workmen have served demand notices dated 30-10-2003 for their reinstatement in service with continuity of service and full back wages.

That the action of the management of terminating the service of the workmen during pendency of the case before this Hon'ble Court is violative of section 33 of the ID Act, 1947 read with section 25F of the said Act, and therefore, the workmen are legally entitled for reinstatement in service with continuity of service and full back wages with all other dues and incidental benefits along with their regularization into the direct service of the management and for payment of wages and allowances of regular workmen of the management.

The management has filed written statement. In the written statement it has been stated that the workmen were/are not employees of the management and they were employed by different contractors who have been awarded with the contract of operation and maintenance of pump sets for watering the garden, plants around IGI Airport, from time to time, by call of tenders. Management used to award the contract on yearly basis as per the requirement of the Horticulture Department for watering the plants and lawns whenever watering is needed. The said work was purely need based and the requirement was such that it could be stopped or may be changed in quantity as per the requirement since it is not of perennial in nature and of permanent need.

That a fresh contract for the work of operation and maintenance of pumps for Horticulture purposes has been awarded to the lowest tenderer namely M/s. Meet Electrical w.e.f. 27-10-2003 and the said contractor has deployed their persons who are at present on the job. The contract with the earlier contractor namely M/s. H.S. Associates came to an end on 26-10-2003.

That the management does not have control or supervision over the workmen who were engaged by the contractor. It was upon the contractor to deploy any person to do the desired job from time to time.

That the management used to make payment to the contractor every month to ensure that the workers deployed by the contractor concerned on the job are paid every month as per the GOI Labour rates plus yearly bonus.

That the work of Horticulture is not of perennial nature and any given plot developed as garden need not remain one for all time to come. In fact, on the land developed as a garden the management used to construct building for commercial use as the need arose. Watering of plant are therefore, disrupted and watering also were stopped whenever plants are grown up. Besides, it is submitted that a big area of land near AAI Hqrs. was chosen for mass plantation during 1994-95 and 3 Pump Sets were deployed for watering plants and after about 5-6 years the Horticulture experts were of the view that since the plants were grown up no further watering was required as they could survive on rain waters and absorbing water from soil. Therefore, the deployment of the said Pump Sets were stopped.

That as per the judgments passed by the Hon'ble Delhi High Court in CW Nos.6161/1999 and 7211/2000 the workmen are not entitled for regularization and other relief prayed since they were not appointed/ deployed by the management but were working under various contractors. It is submitted that the workers ought to have made the contractors under whom the workmen have been working as necessary parties to the present proceedings.

It is denied that the management has adopted any unfair labour practices as alleged or otherwise. It is wrong & denied that the management is in alleged connivance with the labour contractors as alleged or otherwise.

It is wrong and denied that the work performed by the workmen is of perennial in nature and they are doing

their duties continuously for the last many years without any interruption into the service and the existence of the work will continue as long as the management continues to exist as alleged or otherwise.

It is denied that the workmen are legally entitled for their regularization into service of the management and for the alleged payment of wages and allowances at par with other likewise categories of employees directly employed by the management from the date of their joining the service with arrears as alleged or otherwise.

It is wrong and denied that during the pendency of the present case before this Hon'ble Court the management had been continuously pressurizing not to take up their case in the court and to settle the matter as per the dictates of the management and when the workmen did not agree to the same, the management has terminated the service of the workmen by not allowing them to resume duty w.e.f. 28-10-2003 even without any notice and without making payment of their earned wages and other legal dues as alleged or otherwise.

It is denied that the alleged action of workmen during pendency of the case before this Hon'ble Court is violative of Section 33 of the ID Act, 1947, read with section 25 F of the said Act, and therefore, the workmen are legally entitled for reinstatement in service with continuity of service and full back wages with all other alleged dues and incidental benefits along with their regularization into the direct service of management and for payment of alleged wages and allowances of regular workmen of the management as alleged or otherwise.

The workmen applicants have filed rejoinder. In the rejoinder they have reiterated the averments of their claim statement and have denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard arguments from both the sides and perused the papers on the record.

It was submitted from the side of the workmen that the management of M/ s. AAI has got full control and supervision over the work done by these workmen but the management as per its unfair labour practices is showing these workmen on the roll of contractors and in connivance with those contractors, it is paying these workmen much below the rate of wages and allowances of likewise workmen directly shown on the roll of the management.

It was further submitted that the work performed by these workmen is of perennial in nature and they are doing their duties continuously for the last many years without any interruption into the service and the existence of the work will continue as long as the management continues to exist.

It was further submitted that the workmen are legally entitled for their regularization into the service of the AAI and for payment of wages and allowances at par with the other likewise categories of employees directly employed by the AAI for the date of their joining the service with arrears.

It was submitted from the side of the management that the workmen were/are not employees of the management and they were employed by different contractors who have been awarded with the contract of operation and maintenance of pump sets for watering the garden, plants around IGI Airport, from time to time, by call of tenders. Management used to award the contract on yearly basis as per the requirement of Horticulture Department for watering the plants and lawns whenever watering is needed. The said work was purely need based and the requirement was such that it could be stopped or may be changed in quantity as per the requirement since it is not of perennial in nature and of permanent need.

It was further submitted that a fresh contract for the work of operation and maintenance of pumps for Horticulture purposes has been awarded to the lowest tenderer namely M/s. Meet Electrical w.e.f. 27-10-2003 and the said contractor has deployed their persons who are at present on the job. The contract with the earlier contractor namely M/s. H.S. Associates came to an end on 26-10-2003.

It was further submitted from the side of the management that the management does not have control or supervision over the workmen who were engaged by the contractor. It was upon the contractor to deploy any person to do the desired job from time to time.

It was submitted that the work of Horticulture is not of perennial nature and any given plot developed as garden need not remain one for all time to come. In fact, on the land developed as a garden the management used to construct building for commercial use as the need arose. Watering of plants are therefore, disrupted and watering also were stopped whenever plants are grown up.

The workmen applicants have filed WW1/3, Pay Slip of Sh. J.P. Aggarwal for August, 2002. Besides this paper the workmen have not filed any other document in support of their case. They have been ordered for the payment of Minimum Wages.

The management has filed documents B-29 to- 42. These documents indicate that the workmen have been engaged by M/s. H.S. Associates and they have received all their payments from M/s. H.S. Associates and they have settled their accounts. These documents are photocopies but these documents have not been denied by the workmen. They have put their signature on these photocopies documents. These photocopies establish that these workmen infact have been engaged by M/s. H.S. Associates.

WW 1/5 is photocopy of attendance sheet on loose papers. There is no mention of the name of the management on these attendance sheets. Taking of the attendance of the workmen of the contractors will not imply that the workmen have worked under the control and

supervision of the management. Paper No. B - 51 shows that the duty was assigned on 07-05-2001 to Shri Tiwari. Paper No.B - 52 does not bear any seal and signature of the management. Sh. Tiwari does not disclose any specific workman.

The Hon'ble Supreme Court has also emphasized that the Courts/Tribunals in their sympathy for the handful adhocj casual employees before it cannot ignore the claims for equal opportunity for the teening millions of the country who are also seeking employment. In such case, the Courts/Tribunals should adhere to the constitutional norms and should not water down constitutional requirement in any way.

In Pollock Law of Torts a servant and an independent contractor has been defined as under :

The distinction between a servant and a independent contractor has been the subject matter of a large volume of case-law from which the text-book writers on torts have attempted to lay down some general tests. For example, in Pollock's Low of Torts, (Pages 62 & 63 of Pollock on Torts, 15th Edn.) the distinction has thus been brought out :

"A master is one who not only prescribes to the workman the end of his work, but directs or at any moment may direct the means also, or, as it has been put, retains the power of controlling the work, a servant is a person subject to the command of his master as to the manner in which he shall do his work.....An independent contractor is one who undertakes to produce a given result but so that in the actual execution of the work is not under the order or control of the person for whom he does it, and may use his own discretion in things not specified beforehand

"In Salmond's Treatise on the Law of Torts the distinction between a servant and independent contractor has been indicated as under :

"What then, is the test of this distinction between a servant and an independent contractor? The test is the existence of a right of control over the agent in respect of the manner in which his work is to be done. A servant is an agent who works under the supervision and direction of his employer; an independent contractor is one who is his own master. A servant is a person engaged to obey his employer's orders from time to time; an independent contractor is a person engaged to do certain work, but to exercise his own discretion as to the mode and time doing it—he is bound by his contract, but not by his employer's orders."

The test regarding independent contractor and intermediaries have been laid down in Hussainabhai, calicut V. The Alath Factory Thezhilali Union Kozhikode[AIR 1978 SC 1410 (3 Judges)] "the true test may, with brevity, be indicated once again". Where a worker or group of workers/labours to produce goods or services and these goods or services are for the business of another,

that other is, in fact, the employer. He has economic control over the workers subsistence, skill, and continued employment.

My attention was drawn to the Constitution Bench Judgment in Scale (2006) 4 Scale. It has been held in this case as under :

“A. Public employment in a sovereign socialist secular democratic republic has to be as set down by the Constitution and the laws made thereunder. Our constitutional scheme envisages employment by the Government and its instrumentalities on the basis of a procedure established in that behalf. Equality of opportunity is the hallmark and the Constitution has provided also for affirmative action to ensure that unequals are not treated equals. Thus, any public employment has to be in terms of the constitutional scheme.

B. A sovereign government, considering the economic situation in the country and the work to be got done, is not precluded from making temporary appointments or engaging workers on daily wages. Going by a law newly enacted, the National Rural Employment Guarantee Act, 2005, the object is to give employment to atleast one member of a family for hundred days in an year, on paying wages as fixed under that Act. But, a regular process of recruitment or appointment has to be resorted to, when regular vacancies in posts, at a particular point of time, are to be filled up and the filling up of those vacancies cannot be done in a haphazard manner or based on patronage or other considerations. Regular appointment must be the rule.

My attention was drawn to another Constitution Bench Judgment - Steel Authority of India. It has been held as under :

“Where a workman is hired in or in connection with the work of an establishment by the principal employer through a contractor, he merely acts as an agent so there will be master and servant relationship between the principal employer and the workmen. But where a workman is hired in or in connection with the work of an establishment by a contractor, either because he has undertaken to produce a given result for the establishment or because he supplies workmen for any work of the establishment, a question may arise whether the contract is a mere camouflage as in Hussainabhai Calicut's case (supra) and in Indian Petrochemicals Corporation's case (supra) etc; if the answer is in the affirmative, the workmen will be in fact an employee of the principal employer, but if the answer is in the negative, the workmen will be a contract labourer.”

It was submitted from the side of the management that the work is of temporary and casual nature. Contracts have been awarded to the contractors on yearly basis as

per requirement of Horticulture Department for watering the plants and lawns whenever watering is needed.

It was further submitted that when there is need of mass plantation in the AAI Hqrs., Pump Sets are deployed for watering plants and after about 5-6 years when the plants grow up, no further watering was required. The plants are survived on rain water and absorbing water from soil. The Gardens and Lawns may be deployed to construct the building for commercial building as the need arises.

The workmen have been engaged through contractors. The burden of proving that they worked under the control and supervision of the management is on the workmen. They have to discharge initial burden. They have not filed any cogent documentary evidence to establish that the work was assigned to the workmen by the management and they worked under the control and guidance of the management. They have filed affidavit regarding the fact no doubt but their affidavits are self serving.

The management has denied that they worked under the control and guidance of the management. The workmen in the circumstances have to prove by cogent documentary evidence that the management was their master and the management decided what is to be done and how it is to be done. The watering of Gardens and Lawns cannot be said to be a work perennial in nature. When the plants grow up there is no requirement of watering when the Gardens are converted into commercial use, there is also no need of watering. The workmen were Pump Operators & Helpers. The work is of fluctuating nature. It may be increased or decreased at times. So the engagement of regular workmen is not essential for such fluctuating nature of work.

The workmen have been engaged by the contractors and the contractors have taken the duties from them.

In view of the Constitution Bench Judgment referred to above contractual workmen cannot be regularized. There is no master and servant relationship in view of the criteria laid down in the judgment referred to above. The workmen are not entitled to get any relief as prayed for.

The reference is replied thus:

The demand of the contract labourers namely S/Shri Udai Bhan, Pump Operator, Ashok Kumar Mishra, Pump Operator, Anil Kumar Singh, Pump Operator and Shri Pati Ram, Helper relating to regularization of their services in the establishment of AAI, New Delhi is neither just nor fair nor legal. The workmen applicants are not entitled to get any relief as prayed for.

The award is given accordingly.

Date : 08-11-2007.

R. N. RAI, Presiding Officer

नई दिल्ली, 23 नवम्बर, 2007

का.आ. 3461.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 दिसम्बर, 2007 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले ही प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77,78,79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्,

“जिला कोल्लम के पत्तनापुरम तालुक में एरूर ग्राम”

[सं. : एस-38013/32/2007-एस. एस. I]

एस. दो. जेवियर, अवर सचिव

New Delhi, the 23rd November, 2007

S. O. 3461.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 2007 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77,78,79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of **Kerala** namely:—

“Eroor Village in Pathanapuram Taluk in Kollam District.”

[No. S- 38013/32/2007-S. S. I.]

S. D. XAVIER, Under Secy.

नई दिल्ली, 26 नवम्बर, 2007

का.आ. 3462.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 दिसम्बर, 2007 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले ही प्रवृत्त हो चुकी है) अध्याय-5 और 6 [धारा-76 की उप धारा (1) और धारा-77,78,79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है] के उपबन्ध केरल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात्,

“जिला तृशूर के चावक्काड तालुक में वलप्पाड”

[सं. : एस-38013/31/2007-एस. एस. I]

एस. दो. जेवियर, अवर सचिव

New Delhi, the 26th November, 2007

S. O. 3462.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees State

Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 2007 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter-V and VI [except sub-section (1) of Section 76 and Sections 77,78,79 and 81 which have already been brought into force] of the said Act shall come into force in the following areas in the State of **Kerala** namely:—

“Valppad in Chavakkad Taluk in Trichur District.”

[No. S- 38013/31/2007-S. S. I.]

S. D. XAVIER, Under Secy.

नई दिल्ली, 26 नवम्बर, 2007

का. आ. 3463.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय पूर्ण के पंचाट (संदर्भ संख्या 76/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12-11-2007 को प्राप्त हुआ था।

[सं. एल-12025/1/2007-आई आर (बी-11)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 26th November, 2007

S.O. 3463.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 76/98) of the Labour Court, Pune as shown in the Annexure in the industrial dispute between the employers in relation to the management of Bank of India and their workman, which was received by the Central Government on 12-11-2007.

[No. L-12025/1/2007-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI V.M. KAKADE, PRESIDING OFFICER
2ND LABOUR COURT, PUNE.**

Reference (IDA) No. 76 of 1998

BETWEEN

1. The Zonal Manager,
Bank of India,
Zonal Office,
1162/6, Shivajinagar,
Pune-5.

2. The General Secretary,
Bank of India Staff Union,
8-A, Dr. Coyaji Road,
Pune-1.

...FIRST PARTIES

AND

Their Workman,
Through Bank of India,
Staff Union, Pune.

...SECOND PARTY

CORAM: SHRI V. M. KAKADE

APPEARANCES: Shri D'Soza, Advocate for 1st Party.
Shri Kadam, Advocate for 2nd Party.

AWARD**(DATE: 5-12-2006)**

1. This reference is initiated through General Secretary, Bank of India, Staff Union Pune on behalf of 7 badli sepoys. On failure of conciliation, reference is preferred by the Desk Officer under Clause(d) of sub-sec. 2-A of Sec. 10 of the Industrial Disputes Act, 1947 for adjudication of the dispute:—

"Whether action of the management of Bank of India, Zonal Office, Pune by engaging disputed 7 badli sepoys continuously from the dates mentioned against their names without making them permanent, is legal and justified? If not, to what relief the said workmen are entitled?

2. Second party has put forth facts for appreciation as under:— First party bank is governed by provisions of Sastri Award, Desai Award and by various bipartite settlements. It is contended that in Desai Award only 3 categories are classified (i) permanent employees, (ii) probationers and (iii) part time employees. First party bank has appointed disputed employees as badli sepoys, where there is no such category in Desai Award. Therefore, action of the management to appoint badli sepoys is illegal and unjustified.

3. As per Desai Award temporary employees means, employees appointed for limited period when vacancy is caused by absence of permanent employee. None of the disputed employees is appointed as temporary employee. As disputed employees are continuously engaged, it can be presumed that vacancy in which they have been engaged on work is of permanent nature. Therefore, they would have been appointed as probationers. Therefore, action of the management to appoint them as badli sepoys is illegal.

4. It is contended that as per Desai Award and settled principles of law laid down by various Hon'ble High Courts and Hon'ble Supreme Court, employee on completion of 240 days in a year acquires status of permanent employee and they cannot be terminated or discontinued without notice under Sec. 25(F) of Industrial Disputes Act.

With these facts and relying on provisions of law, it is further contended that disputed employees Shri S. G. Kadam and Shri A. B. Auti are made permanent, but they are not considered as permanent immediate after completion of 240 days. Therefore, management has deprived monetary benefits to them, therefore, Court may grant them monetary benefits extended to permanent employee from immediate completion of their 240 days.

6. It is further contended that during the pendency of this dispute Shri M. K. Sawahase, working as a badli

sepoys expired on 11-2-97. The Hon'ble Court may declare that the dependents of Shri Sawahase are entitled to get the monetary benefits of permanent workmen from his completion of 240 days.

7. Out of disputed employees except Shri S. G. Kadam and Shri Auti, rest are not considered or treated as permanent and benefits of permanent employee are not extended to them. It is contended that now, they are age barred and cannot secure employment elsewhere, therefore, relief of permanent employee be extended to them.

8. It is contended that management of the first party bank illegally terminated disputed employee Shri C.H. Ghatpande w.e.f. 2-4-1985. His abrupt termination is in contravention of Sec. 25(F) of Industrial Disputes Act amounts to illegal termination. Therefore, he be reinstated with full back wages together with interest @ 18% p. a.

9. First party bank appeared and resisted this dispute strongly by submitting its Written Statement at Exh.11. Claim of the disputed employees is denied by the first party bank on the ground that reference is raised after long inordinate delay over 11 years.

10. It is contended that persons covered in the reference were engaged on daily wages, casual workers in various branches of Bank of India in Pune Zone. They were engaged purely on need basis and they were not in regular employment of the bank at any point of time.

11. It is contended that recruitment rules and procedure of its employees have been laid down and approved by the Government of India. Admitting applicability of provisions of Sastri Award, Desai Award and settlements, it is contended that the important criteria for recruitment of sepoys on a regular basis is laid down vide Circular No. PERS. MLP: 80/9, Dtd. 31-12-1980 of Bank of India. It is contended that there is no bank in Sastri and Desai Award to appoint badli sepoys on purely need basis. It is contended that such appointed badli sepoys are considered for regular employment in the bank from time to time subject to their satisfactory character, antecedent, verification and their meeting other criteria as per the recruitment rule. The recruitment rules for regular appointment of sepoys inter alia are that they had to be sponsored by local Employment Exchange, verification of their antecedents, appraising their suitability by selection process including written test, age, qualification and availability of the sanctioned posts in the bank.

12. It is contended that accordingly, Shri S. G. Kadam, Shri A.R. Auti, Shri R. B. Bhande and Shri R. D. Bhonde were found suitable and were given regular employment in the bank as per the recruitment rules and they have accepted appointment without protest. Reference for them therefore, became infructuous disputed employee Shri Y. B. Satav has not been found suitable in selection procedure neither

he did not fulfill the eligibility norms. His name was also not sponsored by Employment Exchange, therefore, he cannot be regularized. Disputed employee Shri L.D. Kokate is not attending the duties from 11th June, 1997 as he is engaged in his own business. Therefore, he has not been called by the bank for confirmation.

13. It is contended that disputed employee Shri C. H. Ghatpande was found who have submitted a false school leaving certificate, stating that he has passed 9th Std. examination. Shri Ghatpande intentionally and knowingly has given his statement and false declaration only to secure employment therefore, he has obtained employment by applying fraud and misrepresentation. Therefore, reference case of Shri C. H. Ghatpande does not survive.

14. It is contended that Shri M. K. Sawahase is not covered in the present reference, and as such claim made by the union on his behalf cannot be considered and his legal heirs are not entitled to any relief.

15. It is contended that thus all the seven persons in the reference were considered for regular employment subject to bank recruitment rules and selection process. Persons who qualified for regular employment were absorbed.

16. It is contended that completion of 240 days work does not give permanent status to the employees, but on completion of 240 days service in a year, there is ban in the provision to discontinue or retrench them without complying provisions of Sec.25(F) of Industrial Disputes Act. On this ground also, reference is not maintainable and liable to be dismissed.

17. In view of the pleadings, following issues have been framed by my Predecessor at Exh. 12. My findings and reasons for the same are as under:-

ISSUES

FINDINGS

- | | |
|---|---------------------|
| 1. Does the 1st party prove that the reference is not tenable on account of delay? | In the affirmative. |
| 2. Whether the union has locus standi to espouse the cause of the concerned parties? | In the affirmative. |
| 3. Whether the 2nd party proves that action of the management by engaging badli sepoys contravening without making them permanent is illegal and unjustified? | In the negative |
| 4. What award? | As per final order |

18. Before proceeding to discuss the issues I would like to mention that first party bank in its Written Statement has contended that Shri S. G. Kadam, Shri A. R. Auti, Shri R. B. Bhande and Shri R. B. Bhonde were found suitable and they have given regular appointment in the bank as per the recruitment rule. As regard to Shri Y. B. Satav, he

was not found suitable in the selection process for a regular appointment and neither he did fulfill eligibility norms. Shri Kokate is engaged in his own business, therefore, he has not been called for badli duties since 1997. As regard to deceased Sewahase and his legal heirs his name is not referred in the reference. Therefore, dispute remained is about Shri C.S Ghatpande only.

19. Admitting the above facts, Ld. Advocate for the second party while commencing his arguments started with the sentence that initially reference was initiated on behalf of 7 to 8 workers, but now dispute is about Mr. C.S. Ghatpande only.

20. Considering the admitted facts in the light of arguments of both the Ld. Advocates, it appears that dispute as regards Shri Satav, Shri Kadam, Shri Kokate, Shri Auti, Shri Bhande and Shri Bhonde is settled out of Court before this date. Therefore, controversy remained is about Shri C. H. Ghatpande only and I am dealing with the dispute of Shri C. H. Ghatpande only. Parties have also restricted their evidence and arguments in respect of Shri C.H. Ghatpande only.

21. To establish his claim, Shri C. H. Ghatpande filed his affidavit in lieu of examination in chief at Exh. 26 and closed his evidence by filing pursis at Exh. 32.

22. On the other hand, first party company has filed affidavit in lieu of examination in chief at Exh. 34 of its Sr. Manager, Personnel Department in Zonal Office of Pune, Shri Hemant Panditrao and closed evidence by filing pursis at Exh. 36. Parties have filed documentary evidence in support of their contentions, those I have referred at relevant places.

23. With this evidence before me, I have discussed my reasons for findings are as under:-

REASONS

24. **ISSUE NO. 2:**—First party bank has challenged locus standi of union to espouse the cause of the concerned persons. This issue goes into the root of the matter and decides maintainability of the reference. Hence, I have decided this issue by giving priority to the rest of the issues.

25. Though pleaded Ld. Advocate for the first party bank has not given much stress on this issue while recording evidence or even at the time of argument.

26. This reference is preferred under Sec. 10(1) of Industrial Disputes Act. As per provisions of Sub. 1(A) (2) of Sec. 10 Reference can be initiated by application being made by a union recognized for any undertaking under any law for the time being in force. If satisfied that persons applying represent the majority of each party shall make the reference accordingly. Therefore, undoubtedly, union can initiate reference to adjudicate dispute of its members. For the same reasons, I defer from the contentions of first party that union has no locus standi to espouse the cause of concerned proceedings. Reference is initiated by the union

with authority of President Bank of India Staff Union. He has right to run for the cause of its numbers. Hence, I answer this issue in the affirmative.

27. ISSUE NO. 1:—This reference is resisted and has challenged maintainability of this reference on the ground of delay caused. Ld Advocate for the first party bank submitted that almost all disputed workers were appointed in the period between 1979 to 1987. The dispute is raised by the union after a long and inordinate delay of 11 years. This long delay in raising the dispute fatal this reference. Hence, liable to be rejected.

28. On perusal of the date of joining of all disputed employees, it appears that it is in between 1979 to 1987. According to them, they were engaged as badli sepoys on daily wages. So cause has been arrived on the very day of appointment as a badli sepoy. All of them have raised the dispute through union in the year 1988 after laps of 11 years.

29. Ld. Advocate for the first party bank has placed reliance on a recent case:—

Manager (Now Regional Director) R. B. I. Vs Gopinath Shah & Anr. Reported in 2006(110) FLR 803 (Division Bench of Hon'ble Supreme Court), wherein it is held that a dispute which is stale could not be subject matter of reference when Central Government referred the matter adjudication nearly after 13 years.

30. Likewise in two other cases

1. Assistant Engineer C.A.D. Kota and Dhaan Kurnwar reported in 2006(11) I.L.J-12- (Hon'ble Supreme Court)

2. U. P. State Road Transport Corporation And Babu Ram reported in 2006 (111) I.L.J-15 (Hon'ble Supreme Court), wherein Hon'ble Division Bench of Supreme Court of India have not granted relief of reinstatement to the workman who have caused delay of 8 years and 15 years respectively in raising dispute.

As matter is settled out of four except dispute of Shri C.H. Ghatpande, on perusal of the evidence, it appears that his services are terminated w.e.f. 7-8-94. Even then delay of 4 years is caused in raising the dispute. He was also appointed w.e.f. 2-4-1985 on part basis.

31. On perusal of the Schedule of the Reference, it appears that reference is not referred for adjudication in the matter of termination and reinstatement of Shri Ghatpande, therefore, adjudication of reinstatement of Shri Ghatpande is beyond the Schedule of Reference.

32. At the cost of repetition I would like to mention that all disputed employees have been appointed in the period between 1979 to 1987 as badli sepoys. Before this reference they had not protested their grievance regarding permanency before any Authority. They accepted their wages for about 11 years without raising any dispute. This delay cause is also not explained by them satisfactorily.

33. Keeping in mind ratio laid down in the authorities cited supra, I am of the opinion that 11 years long delay is caused in raising the dispute. So also, delay caused in raising the dispute is not satisfactorily explained. On this ground also, their claim cannot be considered. Hence, I answer the Issue No. 1 in the affirmative.

34. ISSUE NO. 3:— This is a very important issue based on reliefs claimed by the disputed employees. At the cost of repetition, I would like to mention that except Shri C.H. Ghatpande, none of the disputed employees appeared before the Court to adjudicate their dispute as either they have settled their dispute with the bank out of Court, Because of the settlement admittedly, Shri. Kadam, Shri. Auti, Shri. Bhonde and Shri. Bhande have accepted their appointments without any protest and accordingly they have commenced work as regular sepoys. Shri. Y. B. Satav is not considered for regular employment as he was not found suitable and did not fulfill the eligibility norms. Shri. Kokate had not claimed appointment as he engaged in his own business. Therefore, out of 7 disputed employees, only Shri C.H. Ghatpande came forward to proceed with the reference to adjudicate his dispute for reinstatement alleging that he is illegally terminated. For this, I would like to mention that this reference is preferred for adjudication "Whether action of the management of Bank of India, Zonal Office, Pune by engaging disputed 7 badli sepoys continuously from the dates mentioned against their names without making them permanent, is legal and justified? If not, to what relief the said workman are entitled? So, it is very clear that reference is not preferred for adjudication of the dispute in respect of termination and for reinstatement of Shri C.H. Ghatpande.

35. It is settled principles of law that Court cannot travel beyond the schedule of reference and the Schedule of reference is regarding permanency of the disputed 7 employees. There is no single word in the reference schedule about termination and dismissal of Shri C.H. Ghatpande. Therefore, it is not proper to adjudicate matter of Shri C.H. Ghatpande for illegal termination with prayer of reinstatement as the same is beyond the scope of reference.

36. On the reasons stated in the preceding paras, according to me, Issue No.3 does not survive. Even if it is presumed that it survives, then considering the evidence, it appears that none of the disputed employees except Shri C.H. Ghatpande appeared before the Court and led evidence as to how they be considered as per schedule of the reference for permanency. Absolutely there is no evidence on the side of the second party to establish that action of the management to appoint badli sepoys is contravening provisions of Shastri & Desai Award and the action of the management to appoint them as badli sepoys is illegal and unjustified.

37. Both of the Ld. Advocates have argued on appointment and termination of Shri C.H. Ghatpande Ld.

Advocate for they second party vehemently argued that Shri C.H. Ghatpande was appointed on 2-4-1985 and he was not made permanent till 1995. He worked continuously for more than 240 days and his services are terminated without complying provisions of Sec. 25 (F) of Industrial Disputes Act. It is submitted that allegations are made against Shri C.H. Ghatpande, that he had submitted false and fauricated school leaving certificate and because of his fraudulent act, his services are terminated. It is submitted that fraudulent act is misconduct, so first party would have been given opportunity to Shri C.H. Ghatpande by conducting the enquiry. Admittedly, enquiry is not conducted. Therefore, principles of natural justice were not followed by the bank. Hence, termination is illegal. As opportunity was not given, Ld. Advocate for second party placed reliance on Shankar Chakravarti Vs. Britania Biscuits & Anrs. Reported in 1979 (II) LLJ 194.

38. On the other hand Ld. Advocate for the bank submitted that management of the bank is under the control of Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division) Recruitment rules and procedure for recruitment of its employees, have been laid down and approved by the Government of India. For recruitment of regular appointment of sepoys, their sponsorship by local employment exchange is required. Then their ancidents are to be verified, their suitability is to be appraised by selection procedure including written test, age, qualification and availability of the sanctioned posts in the bank. Therefore, 3 condition are necessary for regular appointment of sepoy one is he should have been sponsored by local employment exchange them he should be under the age and with minimum required qualification.

39. Ld. Advocate for the first party bank submitted that Shri Ghatpande has given certain admissions in his cross examination and they are that:—

"he has studied upto 5th Std. He appeared for SSC Examination external. He has not filed mark sheet of SSC Examination and not filed appearance certificate of concerned High School.

40. Therefore, it is submitted that Shri. Ghatpande is not with minimum qualification required for the post of sepoy. He has submitted false and bogus school leaving certificate to show that he has studied upto 9th Std. At the time of appointment, he has submitted false and bogus school leaving certificate with malafide intention to obtain job. Therefore, Shri. Ghatpande obtained job in the bank by submitting false and bogus school leaving certificate. Therefore, his appointment itself is not legal and valid and he cannot ask continuation or permanency as no any legal right exists in him.

41. It is submitted that compliance of Sec25(F) is essential when appointment is legal and valid, but when employment is obtained by applying fraud, compliance of Sec.25(F) is not at all necessary.

42. It is further submitted that Shri C.H. Ghatpande had worked in difference branches of bank therefore, he has not worked continuously for 240 days.

43. Ld. Advocate for the first party has placed his reliance on:—

1. D.G.M. Oil & Natural Gas Corporation Ltd. & Anr. Vs. Ill as Abdulrehman reported in 2005 LLR 235 (SC)

2. Rajasthan Tourism Development Corporation Ltd. and another and Intejam Allizari reported in 2006(110) FLR 773(SC)

3. Regional Manager S.B.I. Vs Mahatma Mishra Supreme Court Cases November 1st, 2006.

44. Ld. Advocate for the first party bank further submitted that admittedly appointment of Shri. Ghatpande is temporary and on daily wages. He was not appointed by following procedure of law. Therefore, he is not entitled for permanency or regularization. Ld. Advocate for bank placed his reliance on Secretary Karnataka State Vs. Uma Devi reported in 2006 (II) CLR-261(SC).

45. On considering the entire evidence on record, it appears that burden is on the second party to prove its case that:—(i) he is under age and having required minimum qualification; (ii) he is sponsored by local Employment Exchange (iii) he is appointed by observing lawful procedure of selection. Then, he has to prove that :—(iv) he has continuously worked for more than 240 days. On perusal of evidence of the Shri C.H. Ghatpande he has just stated that as to how he joined the bank in the year 1985 and how bank terminated him in the year 1994 illegally. Nothing than that is deposed by Shri C. H. Ghatpande about his age, qualification and procedure of selection etc. He has not stated anything about the allegations of submissions of false and bogus school leaving certificate.

46. On the other hand, witness of the bank has stated as to how Shri. C. H. Ghatpande cheated the bank by submitting false and bogus school leaving certificate. Evidence of the first party bank is not seriously challenged by the second party.

47. Considering the entire evidence on record, I am of the opinion that Shri C. H. Ghatpande failed to establish that at the time of appointment, he was under age and with required minimum qualification, he was gone through procedure of selection etc. Therefore, his appointment itself is void and it does not create any legal right in him.

48. Admittedly, he was temporarily appointed. So, also he has worked in different branches. His appointment was on daily wages and without complying regular procedure of selection. Therefore, he is not entitled to regularization and permanency as ratio laid down in Uma Devi's case.

49. Considering the entire evidence in the light of submissions and ratio laid down in the authorities cited supra, second party failed to establish its claim particularly

in the case of Shri C. H. Ghatpande. Therefore, he is not entitled to any relief. Hence, I answer this issue in the and consequently pass following order :—

ORDER

1. Reference is hereby rejected.
2. No order as to costs.

PLACE : PUNE.

DATE : 05-12-2006

V. M. KAKADE, Presiding Officer

नई दिल्ली, 26 नवम्बर, 2007

का. आ. 3464.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ संख्या 82/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2007 को प्राप्त हुआ था।

[सं. एल-12011/123/2002-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 26th November, 2007

S.O. 3464.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 82/2002) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, New Delhi as shown in the Annexure, in the industrial dispute between the management of Allahabad Bank, and their workman, received by the Central Government on 13-11-2007.

[No. L-12011/123/2002-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER: CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

PRESIDING OFFICER: R. N. RAI I. D.

No. 82/2002

IN THE MATTER OF:—

The General Secretary,
Allahabad Bank Employees Association,
C/o Allahabad Bank Baroda House,
New Delhi-110001

VERSUS

The Asstt. General Manager,
Allahabad Bank, Regional Office,
13/34, Arya Samaj Road, Karol Bagh,
New Delhi-110005.

AWARD

The Ministry of Labour by its letter No. L-12011/123/2002 IR (B-II) Central Government dt. 24-09-2006 has referred the following point for adjudication.

The point runs as hereunder:—

“Whether the action of the management of Allahabad Bank, Regional Office, New Delhi in imposing the penalty of reduction in pay by two stages with cumulative effect on Shri Nand Kishore Tekriwal is legal and justified? If not, what relief is the concerned workman entitled to?”

The union has filed claim statement. In the claim statement it has been stated that the workman is a permanent employee of the bank and presently posted at Baroda House Branch of the said bank and has been office bearer of the above said union.

That the final order No. RO/PERS/62/279 dtd. 24-02-2000 based on Charge Sheet No. RO/PERS/62/638 dt. 12-08-1999 inflicting punishment “To bring you down to a lower stage of pay up to a maximum of two stages with cumulative effect” was never served upon the workman, as such the final order is bad, illegal, perverse and against the provisions of Bipartite Settlements/Awards and Article 311 of Constitution of India.

That the concerned workman was posted at Alipur Branch Delhi in the capacity of clerk-cum-cashier and was working satisfactory to his supervisors and was having unblemished record of service without any complain from any corner.

That one Shri. J. P. Pandey Officer was posted in the said branch who was in connivance with the rival union, lodged a false complaint to the manager of Alipur Branch without addressing the same to him alleging there in that the workman has manhandled him without giving names of witnesses.

That other allegations regarding not writing the entries in detail by adopting go slow tactics, and also allegation regarding sleeping on duty were falsely cooked up to prepare a charge sheet against the workman who was always attempting to work in the interest of the bank which was not liked by the said officer. In this connection, the workman has given number of letters to the Sr. Manager of the said branch which instead of correcting the wrong practicing of the branch in banking procedure which made the management annoyed and the workman was targeted for his said communications by falsely implicating him in the charge sheet No. RO/PERS/59/1649 dated 12-8-1998.

That the management proved charge No. 1, partly proved charge No. 2, not proved charge No. 3 by conducting a whimsical, arbitrary enquiry by violating the Award/Settlements provisions governing the service condition of bank employees and did not afford reasonable opportunity in providing documents as called for and

flouted the principle of natural justice denying the workman to defend his case properly.

That the whole process of enquiry was illegal, perverse arbitrary, whimsical, bias and prejudicial as the enquiry officer has exceeded his limit and favored the management by involving actively himself under the pressure of high ups who were bent upon to punish the workman by adopting any means just to teach him a lesson of being a office bearer of his union which was always exposing the wrong deeds of high ups and pointing out by communications, the various discrepancies in the functioning of the branch.

That the complaint Sh. Pandey's letter was having different contents from the contents mentioned in the charge sheet. Which shows that the charge sheet has been falsely prepared to harass and victimize the workman without any substance of truth at the direction of the higher management without following the procedure for preparation of charges as per Award/Settlement.

That the workman has been sincerely performing his duty and was arbitrarily involved in the said charge sheet by alleging the false and fabricated charges. Just to satisfy their whim and ego.

That the workman has been doing his duties as per the banking procedure and practice of branch in writing the long book of the vouchers which was available to him during the working hours. There was nothing intentional of deliberate on his part in performing his duty as the said tactics of writing long book was in existence and compared accordingly.

That the management witness namely Sh. K. K. Malhotra, Sh. J. P. Pandey, Sh. Ashok Jaiswal, Sh. A. K. Verma, Sh. V. D. Mathur were all influenced by higher management and they started the contradictory story in cross-examination by defence.

That the enquiry officer has indicated his observation for punishment to the workman which clearly establish that the enquiry officer crossed his limit & became interested in seeing that the workman be punished.

That the enquiry officer failed to give reasonable opportunities to defence to properly pursue the document and denied certain important documents called by the defence.

That as per complaint by Sh. Pandey dtd. 28-7-98 i.e. ME-6 Mr. Kishore Kumar Meena refused to do a work (in lunch time - as he was taking rest by sleeping as per ME-6) than no question of Mr. Tekriwal arose to intervene and be anger. It was nothing but just to teach a lesson to the office bearer of NCBE union to which union Mr. Meena was belonging at that period. It proves itself the whole story is concocted, fabricated, bias, false & illegal charges.

That the Disciplinary Authority passed the punishment order in stereo style without giving reasons thereof.

That the Appellate Authority also acted against the rules by rejecting appeal after completion of seven (7) months, though the same should have been decided within a reasonable period of sixty days without giving any reasons there of as per award/settlement.

That the enquiry officer Sh. R. K. Gupta has reported his findings to the Disciplinary Authority as a senior manager and not as a enquiry officer by the same without date at page 12 which is illegal bad in law and against the rules and precedence which the Disciplinary Authority should have rejected the entire enquiry report finding, but it was not done so for the reason best known to the Disciplinary Authority.

That no copy of complaint and other documents were given to employee at the time of service of charge sheet dated 12-8-1998 or Show Cause notice dated 19-7-1998, which is essential to reply the same in spite of request, just to add/amend the charges as per high up direction.

That enquiry Officer has failed to appreciate that the contradictions in the Show-Cause notice served by Sr. Manager on 29-7-1998 and complaint by Sh. J. P. Pandey are different, as per complaint by Sh. J. P. Pandey time is, "at around 3 P.M. in the branch the detail of the circumstances are as under. In view of the position of Day Book sat down to write the same for Current and Misc. At that time Sh. Kishore Kumar Meena who is the daily writer of current long book, was sleeping on his table, I requested Sh. Meena that since I am writing the long book of Current and as well as misc. kindly help in getting the total down as regards outer column of the Day Book which is already balanced by me on date for Cash & Transfer column for day book dated 27-7-98. He refused to do the same. Suddenly Sh. N. K. Tekriwal came up from his seat. Turned me in shouting voice & pushing me forcibly by his hand caught hold my right hand & pushed me. On one side & told in loud voice that you can not resist member in this way."

That as per show cause Sr. Manager charges that Mr. Tekriwal said to Mr. Meena to disobey the order of Asstt. Manager Operation, but such word not used any where in main complaint and during enquiry Asstt. Manager Operation himself changed the statement of complaint and show cause as well as charge sheet. Hence the whole things proved illegal, fabricated, malafide and perverse. That show-cause notice served to employee has also been written in the hand written of the complaint Sh. J. P. Pandey himself the management has not considered that "no one shall be judge in his own case" and ignored that the complaint prepared the show-cause notice in his own hand-writing and then the same was signed by the Branch Manager which clearly reflects the collusion of the management and which is the admitted fact in the departmental proceedings and the contents were manufactured to suit the management requirement to some

how implicate the workman. Which infact is illegal, as the Disciplinary Authority is only authorized to issue the show cause as per service condition.

That is no mention in charge sheet served to employee that the reply of the show cause is unsatisfactory which is a must as per the provisions of Awards/Settlements governing the bank employees service conditions only after that enquiry can be initiated.

That the charge No. 2 has been shown by the Enquiry Officer as Partly proved which is not as per the law. As the charges either proved or not proved. The management has wrongly appreciated that charge No. 2 partly proved and partly not proved. It is well settled law that either the whole charge will be proved or the whole charge will not be proved. In the present case charge No. 2 is also not proved, as the same has been partly proved by the Enquiry Officer.

That the Enquiry Officer has wrongly appreciated that the timing of the incident may be taken at 3.00 P.M. As the said timings were stated by the prosecution witness and both were not authenticated the prosecution itself and without any evidence so it cannot be presumed as correct, it can also be 2.30 P.M. to 2.45 P.M., but in the complaint of Sh. Pandey it is mentioned as 3.00 P.M. to 2.45 P.M., but in the complaint of Sh. Pandey, it is mentioned as 3.00 P.M., which can not be assumed, as time factor is significant being lunch break.

That the Enquiry Officer has failed to appreciate that the contradictions in the statement that whether Mr. Pandey was sitting or standing it shows that the entire story is false and fabricated.

That the Enquiry Officer has given his findings on assumption and presumptions and not on facts and the circumstances not supported by any evidence on record and thus the enquiry is vitiated and bad in law.

That the reduction to a lower stage in a time scale for unspecified period or as a permanent measure is not permissible under the rules and therefore the same is illegal, arbitrary, malafide and perverse.

That the punishment order of disciplinary authority said it is as per under para 21 (iv) © of Bipartite Settlement dated 14-2-1995. But in fact the said Settlement dated 14-2-1995 stated, "be brought down to lower stage in the scale of pay up to a maximum of two stages." Thus the order of punishment is illegal, perverse and bad in law.

That the Enquiry Officer has wrongly formed an opinion that "it was a deliberate act on the part of Shri N. K. Tekriwal to harm Mr. Pandey physically and obstructed him from performing his duties". And the presumption of the Enquiry Officer that the wordings of ME6 (report by Branch Manager to Regional Office) "pushed and manhandled" are correct and it is not appreciated that the wordings used in ME 6 was not used by complaint at any where.

The management has filed written statement in written statement it has been stated that the management submits

that the above said punishment was imposed upon the workman pursuant to the chargesheet dated 12-8-98, whereunder charges relating to riotous/disorderly behaviour, willful slowing down the performance of his work, insubordination or disobedience of the lawful orders of the superior authority were leveled against him. In pursuance to the chargesheet a departmental enquiry was conducted against the workman in which one charge against the workman was held as proved, another charge was held as not proved and the third charge was held as not proved. The Disciplinary Authority of the management Bank had thereafter imposed the punishment of reduction in pay by two stages with cumulative effect upon the workman vide orders dated 24-2-2000 and the said punishment was confirmed in appeal vide orders dated 6-11-2000 by the Appellate Authority. The management at the outset submits that the Departmental Enquiry conducted against the workman was conducted in accordance with the principles of natural justice and the punishment imposed upon the workman is commensurate with the gravity of the charges leveled against the workman.

That the alleged dispute is neither espoused nor the Union has any locus standi in the case. It is stated that the present dispute is not covered under Section 2 A of the Industrial Disputes Act, 1947 and unless the union shows its locus and produces records to show the espousal of the dispute by it, the reference may kindly be rejected being not an 'Industrial dispute' as defined in Section 2 (k) of the Industrial Dispute Act, 1947.

It is submitted by order of punishment passed by Assistant General Manager, the Disciplinary Authority on 24-2-2000 was duly served upon the workman. Thereafter on the basis of which he preferred an appeal before the Appellate Authority and Zonal Manager, Zonal Office, Parliament Street on 18-4-2000. In fact order of proposed punishment was also given to the workman by the Disciplinary Authority and an opportunity for personal hearing was also provided to the workman. The opportunity of personal hearing was availed by the workman on 15-2-2002 along with its defence representative. The Appellate Authority after reappraising the entire record of the enquiry and submissions made by the defence confirmed the proposed punishment on workman. The order passed are perfectly legal and just and in accordance with the principles of natural justice. The provisions of Article 311 of the Constitution of India would not be attracted in the case of Bank employees.

It is stated that on 28-7-98 at about 3.10 P.M. while Asstt. Manager (J.P. Pandey) of the branch was issuing instructions to Shri Kishore Kumar Meena, Clerk-Cum Cashier of the branch after coming at his counter to write down total of the day book by writing in the other column of the day book, the workman got up from his seat, physically caught hold up of the Asstt. Manager and uttered foul language, obstructed him from lawfully carrying out

his duties. It was on basis of the above misconduct that the chargesheet dated 12-8-98 was issued to the workman and Enquiry was conducted after giving the workman full opportunity in the enquiry proceedings. The workman was given the opportunity in consonance with the principles of natural justice.

It is submitted that workman was chargesheeted on the basis of the misconduct committed by him. The charges against the workman were proved against him in the departmental enquiry after giving him full opportunity in the departmental proceedings to defend his case. It is wrong and denied that there is any violation of any procedure as made out in this paragraph. The tactics adopted by the workman were adopted were to save his own skin from the consequences of his acts of the omission and commission. It is wrong and denied that the charges against the workman were cooked up as alleged. It is further wrong and denied that the workman was falsely implicated as alleged.

The averments made in the paragraph that the workman was not given the opportunity in the departmental proceedings are wrong and denied. In fact, the workman along with the defence assistant Shri R. S. Saini participated in the departmental enquiry. The Enquiry Officer after perusing the documentary evidence and the oral evidence gave his findings vide his Enquiry Report.

The allegations that principles of natural justice has been violated is wrong and denied. It is submitted that the charges were enquired into by the Enquiry Officer and he gave his findings. The findings of the Enquiry Officer are a matter of record. The fairness of the Enquiry Officer is shown by the fact that he did not hold the charge No. 3 as proved.

It is wrong and denied that the management wanted to teach the workman a lesson just because he was the office bearer of the Union, had this been so, there were many other office bearers of the Unions and if this submissions is accepted the management would have taken action against all of them, but it is not true. The Enquiry against all of them, but it is not true. The Enquiry was conducted in a just and fair manner. The Enquiry Officer has acted fairly and within his jurisdiction. The workman has failed to point out as to what office bearer he was in the Union. As per the information of the management, the alleged Union has no locus to raise any dispute.

The charge sheet was issued on the basis of the complaint made by the complaint Shri Pandey's letter. It is wrong and denied that the chargesheet was issued to harass the workman as alleged. The vague and vexatious allegations made do not deserve any consideration.

It is wrong and denied that the charges against the workman were false and fabricated or that the chargesheet was issued to him to satisfy the whim and ego of the officials of the management Bank.

The chargesheet has been issued to the workman leveling certain specific charges, the workman is trying to mislead the Hon'ble Court by making allegations unconnected with the Enquiry Proceedings. The Hon'ble Court would not permit him to raise extraneous issues not part of the enquiry and the charge sheet issued to him.

It is submitted that the evidence of all the management witnesses MW-1 — MW6 substantiate the charges against the workman and nothing came out in their cross examination. It is stated that the workman is making very vague and wild allegations.

It is again stated that the workman is making very vague and wild allegations against the Enquiry Officer. It is submitted the Enquiry Officer gave his findings regarding the charges after perusing the documentary as well as oral evidence which came on record before him.

All possible reasonable opportunity was given to the workman during any proceedings. The workman has failed to point out any specific document which was denied to him. It is stated that unless prejudice is shown to be caused, the wild and vague allegations cannot be entertained by the Hon'ble Tribunal.

It is denied that the charges against the workman are concocted as alleged. The allegations are being made by way of an afterthought. No such case was put up in defence to the charge sheet.

It is submitted that the Disciplinary Authority passed the punishment order only after perusing the records of the Enquiry Proceedings which is reflected in the punishment order dated 24-2-2000. The order have been passed after due application of mind and after giving personal hearing to the workman on the show cause notice issued.

The Appellate Authority after considering the orders of the Disciplinary Authority and perusing the record of the Enquiry Proceedings affirmed the order of Disciplinary Authority and rejected the appeal of the workman. It is stated that there is no time period given under the Bipartite Settlement for deciding the appeal as alleged by the workman and it was decided at the earliest. It is only in the case of dismissal that the appeal has to be decided in 60 days. On the contrary as appeal should be preferred within 45 days from the date of receipt of the order appealed against. The workman appealed against the orders of the Disciplinary Authority dated 24-2-2000 on 18-4-2000 which was after the statutory period of 45 days, but still the Appellate Authority considered his appeal and rejected the same vide orders dated 6-11-2000.

It is submitted that merely because the designation or the date is missing from the Enquiry report does not vitiate the Enquiry proceedings. It is only to be seen that whether Enquiry proceedings was carried out in accordance with the principles of natural justice or not or for that matter

the charged official have been given opportunity to defend himself. The findings of the Enquiry Officer are fair and just.

It is stated that it is not necessary to enclose documents along with charge sheet. Even otherwise also all documents on which charges were based were made available to the workman during the enquiry proceedings and no prejudice has been caused to the workman on this score.

It is stated that the complaint of Shri J. P. Pandey was made in English while the show cause notice dated 29-7-98 was made in Hindi. There is no contradiction in the statements made by Shri J. P. Pandey and Shri Kishore Kr. Meena. The management would rely on the records of the Enquiry to show that the allegations being made are without any basis and not supported by the records.

It is submitted that during the enquiry proceedings Charge No. 1 and Charge No. 2 have been proved, and partly proved respectively on the basis of oral and documentary evidence on record. It was only a show cause notice being given by the Branch Manager before the charge sheet dated 28-7-98 was issued by the Disciplinary Authority. The Enquiry was instituted in the charge sheet. The workman was permitted to be represented in the Enquiry by his representative. Having participated in the Enquiry and availed opportunities to cross examine the witnesses, present his own witnesses, the workman cannot challenge the procedure adopted. It is again said that disciplinary action starts with the issuance of the charge sheet. It is not necessary to refer to any letter issued before in this regard in the charge sheet.

It is stated that either charge is proved, partly proved or not proved is shown from the Enquiry Record. It is stated that Enquiry Officer after perusing the documents and oral evidence and giving the full opportunity to cross-examine the management witness gave his report stating charge 1 as proved, charge No. 2 partly proved, charge No. 3 not proved. There is no infirmity in the findings of the Enquiry Officer.

It is stated that timing of the incident is not that important to absolve the person of his misconduct. In the instant case, the workman was charged with manhandling and preventing a willing person to work which was duly proved in the enquiry proceedings. Even if during the lunch break if the above act is committed then its remain as punishable offence.

It is again stated that whether Mr. Pandey was sitting or standing is immaterial. These minor contradictions will not absolve the misconduct committed by the workman which stands proved in the Enquiry proceedings. The Enquiry Officer has given his findings on the basis of the evidence on record before him. The findings are supported by the evidence before him.

It is stated that in order dated 6-11-2000 by the appellate authority, the punishment order by Disciplinary

Authority that is "to bring you down to lower stages of pay up to a maximum of two stage with cumulative effect" was changed to "to bring down the basic pay of Shri N. K. Tekriwal by two stages".

It is stated that the punishment order that "to bring down the basic pay of Shri N. K. Tekriwal by two stages" which is as per 21 (iv) (c) of Bipartite Settlement dated 14-2-95 which states "be brought down to lower stage in the scale of pay up to a maximum of two stages". It is therefore, stated that the order of punishment is legal and just.

It is stated that the Disciplinary Authority after perusing all the records of the proceedings, the exhibits, the evidence of witness, findings of the enquiry gave his punishment order. The orders are speaking orders passed after due application of mind. The findings of the Enquiry Officer are legal and just and based upon the evidence on record.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averment of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

It was submitted from the side of the workman that Shri J. P. Pandey, Officer posted in the branch was in connivance with the rival union. He lodged a false complaint with the management of Alipur Branch alleging therein that the workman has manhandled him without giving the names of the witnesses. He also alleged that the workman was not writing entries in detail by adopting go slow tactics.

It was also alleged in the said letter that the workman was in the habit of sleeping while on duty. The workman was served with a chargesheet which was falsely cooked up.

The Inquiry Officer held Charge No. 1 proved partly, Charge No. 2 proved and Charge No. 3 not proved. The workman was not afforded reasonable opportunity in providing documents as called for. The Inquiry Officer flouted the principles of natural justice denying the workman to defend his case properly. The whole process of the inquiry was illegal, perverse, arbitrary, whimsical, biased and prejudicial as the Inquiry Officer has exceeded his limit and favoured the management by involving actively himself under the pressure of high ups who were bent upon to punish the workman by adopting any means just to teach him a lesson of being a office bearer of his union which was always exposing the wrong deeds of high ups and pointing out by communications, the various discrepancies in the functioning of the branch.

It was submitted from the side of the workman that

the following charges were framed against the workman:—

Charge No. 1.

On 28-07-1998 at about 3:10 PM, while Assistant Manager of the Branch was issuing instructions to Shri Kishore Kumar Meena, CCC of the branch, after coming at his counter, to write down totals of the day book by writing in the outer column of the day book, you immediately got up from your seat, physically caught hold that Assistant Manager from his right hand shoulder and pushed him forcefully. You uttered the following language with top of your voice:—

“Aap Apni Ish Tarah Se Manmani Naht Kar Sakte”.

Charge No. 2.

While Sh. J. P. Pandey, Assistant Manager of the branch was proceeding towards his seat, you physically obstructed his way, pushed him by your hands, forced him to stand there and this prevented him to go to his seat”

However, the following part of the charge could not be established :

“Therefore, you were found sleeping on your seat.”

Charge No. 3.

That you intentionally adopted the go slow tactics and leave your assigned duty incomplete which is clear from the under-noted details.

On 28-07-1998 you left out 56 entries to be written in the long book as per your assigned duty and thus left the work incomplete which was completed by the Assistant Manager, Mr. Pandey, the next day.

As regards the chage of not writing 56 entries in the long book, it was observed that the branch did not have a system of handing over all the vouchers to the Day-Book writer. These 56 entries pertain to salaries paid by the branch to the staff of MGIIREPD. As per the past practice of the branch also, just one entry was being written in the long book “Various Accounts”.

On page 25, DAQ No. 36 to MW1, it is stated that the said transfer entry is not scrolled in the transfer scroll, which is a violation of H. O. Guidelines and which is a major lapse in the branch functioning. In reply to DAQ 31, MW1 stated “comparing was done through list”. Answers to question DA 32, 33 (Page 24, 25) clearly stated that these books were written as per the past practice of the branch.

Conclusion:— Thus the Charge No. 1 was proved conclusively and the following part of the Charge No. 2 was proved conclusively :—

“While Sh. J. P. Pandey, Assistant Manager of the branch was proceeding towards his seat, you physically obstructed his way pushed him by your hands, forced him to stand there and thus prevented him to go to his seat”.

However, the following charges were not proved:—

The following part of Charge No. 2.

“Therefore, you were found sleeping on your seat.”

Also Charge No. 3 could not be proved.

Hence, there was gross misconduct in terms of Para 19.5 (e) and 19.5 (c) of the bipartite settlement dated 19-10-1966.

It was further submitted that during the course of inquiry the management witness Mr. K. K. Mehrotra MW1, Sh. J. P. Pandey MW2, Sh. Ashok Jaiswal, MW3, Sh. B. D. Mathur MW4, Sh. A. K. Verma, MW5 & Sh. M. C. Rana MW6 were examined. The Inquiry Officer did not find proved the charge of sleeping of the workman on his seat and he also did not find Charge No. 3 proved. The Inquiry Officer found Charge No. 1 proved. Charge No. 1 relates to physical catching hold of the Assistant Manager from the right hand shoulder and catching him forcibly while the Assistant Manager of the branch was issuing instructions to Shri Kishore Kumar Meena CCC of the branch after coming at his counter to right down the totals of the day book by writing in the outer column of the day book. The Inquiry Officer found the charge proved after analysis of the evidence of the witnesses examined during the course of the inquiry. The Inquiry Officer has also found the charge regarding physically obstructing the way of the Assistant Manager pushing him by his hands and forcing him to stand there and preventing him to go to his seat. The charge regarding the workman being found sleeping was not proved and the charge regarding go slow tactics in maintaining records was also found not proved.

It is submitted from the side of the workman that in the charge-sheet it has been specifically mentioned that this incident occurred at about 3:10 PM while from the evidence of the witness it may be 2:45 to 3:00 PM.

It was submitted from the side of the workman that there was no such incident of pushing and holding anyone by Sh. N. K. Tekriwal. It was the need of hour on account of loose motion, dis-order suffered by Sh. Pandey. There was no intention of obstructing in any way by the workman. The defence has examined Mr. Meena. Mr. Meena has accepted in his cross-examination that both the workman and the Assistant Manager, Sh. Tekriwal was in a hurry to go to the bathroom. Sh. Tekriwal proceeded hurriedly and Mr. Pandey also proceeded hurriedly and accidentally both fell down and Sh. Tekriwal got hold of Sh. Pandey.

This defence version indicates that there was an admission of blocking the way of the Assistant Manager and falling down of the workman and the Assistant Manager and catching hold of the hand of Sh. Pandey by Sh. Tekriwal, so the defence version also suggest that some such type of incident took place. The defence witness has not denied the entire incident.

Mr. B. D. Mathur, MW4 has clearly narrated the incident of manhandling by Sh. Tekriwal and physical pushing Sh. Pandey from going to his seat and catching hold of Sh. Pandey and pushing him and obstructing him from going to his seat. Mr. Mathur has also deposed that the whole incident shows the aggressive behaviour of

Sh. Tekriwal towards his superior officers. Mr. Pandey was taken a back by such behaviour and he was simply trying to go to his seat.

The incident regarding manhandling of Sh. Reddy by Sh. Tekriwal and has been fully supported by Mr. B. D. Mathur MW4.

The Inquiry Officer cannot be said to be biased as he found Charge No. 1 only proved and Charge No. 2 partly proved. The workman has been given full opportunity to cross-examine all the witnesses and all the witnesses have been cross-examined. There may be a slight variance in time as the Sr. Officer will certainly be upset by such behaviour of subordinate.

It was submitted that even the charges were found proved the punishment inflicted on the workman is excessive and not proportionate to his misconduct.

My attention was drawn to memorandum of settlement dated 10-04-2002 on disciplinary action procedure for the workman. It has been provided in item 6 E & F that increments may be brought down by two stages in the scale of pay up to a maximum of two stages.

From perusal of the inquiry proceedings it becomes quite obvious that the management has examined 6 witnesses and all are the Officers/Employees of the management. The evidence of Sh. B. D. Mathur is explicit and categorical. The management has examined Sh. J. P. Pandey, the complainant as MW2. The defence witness, Sh. Meena also corroborates the incident though there is slight variance in the description of the incident but the evidence of the defence witness also suggests that the incident took place though there is slight variance. The charge-sheeted employee has cross-examined all the witnesses. He has adduced his own defence evidence. Thus, there is sufficient compliance of the principles of natural justice.

It is settled law that the testimony of a solitary witness is sufficient for the Inquiry Officer for finding the charges proved. The strict Rules of Evidence Act are not applicable in the domestic inquiry.

The Tribunal has no right to consider the adequacy or otherwise of the evidence. It is settled law that in departmental inquiry charge can be held proved on a single testimony of the department. In the instant case six witnesses have been examined.

The law regarding evidence in inquiry has been summarized by the Bench of 3 Judges in 1997 1 ab. IC 845. It has been held as under:—

"In a domestic inquiry the strict and sophisticated rules of evidence under the Evidence Act may not apply.

All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. The departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Evidence Act."

"The sufficiency of evidence in proof of the finding by a domestic tribunal is beyond scrutiny. Absence of any evidence in support of a finding is certainly available for the court to look into because it amounts to an error of law apparent on the record."

"An Industrial Tribunal would not be justified in characterizing the finding recorded in the domestic inquiry as perverse unless it can be shown that such a finding is not supported by any evidence, or is entirely opposed to the whole body of the evidence adduced before it. In a domestic inquiry once a conclusion is deduced from the evidence, it is not permissible to assail that conclusion even though it is possible for some other authority to arrive at a different conclusion on the same evidence. There is also no rule of evidence which lays down that the evidence of a solitary witness cannot be relied upon or merely because there is only a solitary witness in support of the charge, no conclusion can be based upon it even though the evidence of that witness is acceptable as true."

It has been held in this case that in domestic inquiry evidence of a solitary witness is sufficient to hold the charges proved.

It has been held in 2001 (89) F.I.R 427 as under:—

"It is well settled that a conclusion or a finding of fact arrived at in a disciplinary inquiry can be interfered with by the court only when there is no material for the said conclusion; or that on the materials, the conclusion cannot be that of a reasonable man."

In the instant case 6 witnesses have supported the version of the management as proved. Besides all these witnesses the evidence of the defence witness also lends support to the case of the management. The inquiry is fair. Principles of natural justice have been followed.

The reference is replied thus:—

The action of the management of Allahabad Bank, Regional Office, New Delhi in imposing the penalty of reduction in pay by two stages with cumulative effect on Shri Nand Kishore Tekriwal is legal and justified. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date: 7-11-2007

¶

R. N. RAI, Presiding Officer

नई दिल्ली, 26 नवम्बर, 2007

का. आ. 3465.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कॉरपोरेशन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम-न्यायालय, बंगलूर के पंचाट (संदर्भ संख्या 13/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 15-11-2007 को प्राप्त हुआ था।

[सं. एल-12012/172/2004-आई. आर.(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 26th November, 2007

S.O. 3465.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2005) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the industrial dispute between the management of Corporation Bank and their workmen, received by the Central Government on 15-11-2007.

[No. L-12012/172/2004-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE-560022**

DATED : 25th OCTOBER, 2007

PRESENT : Shri A. R. SIDDIQUI,
Presiding Officer

C. R. No. 13/2005

I Party

Sh. M. Sreerama Reddy,
Vijayendraswamy
Temple Street,
Behind KFB Quarters,
Bethamangala,
Bangerpet Taluk,
KGF

II Party

1. The Dy. General
Manager,
Corporation Bank, Head
Office, Mangaladevi
Temple Rd. PB 88,
Mangalore-575001.
2. The Chief Manager,
Corporation Bank, Head
Office,
Mangaladevi Temple
Raod, Mangalore-575001

APPEARANCES

I Party : Shri K V Satyanarayana
Advocate

II Party : Shri N Venkatesh
Advocate

AWARD

1. The Central Government by exercising the powers conferred by Clause (d) of sub-section(1) and sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947

has referred this dispute vide Order No. L-12012/172/2004-IR (B-II) dated 27-1-2005 for adjudication on the following schedule:

SCHEDULE

“Whether the action of the management of Corporation Bank, in discharging, Shri M. Sreerame Reddy, Clerk from services vide order dated 11-3-2003, is justified? If not, what relief the workman is entitled to?”

2. A charge sheet dated 16-12-2002 marked before this tribunal as Ex M-1 came to be served upon the first party in the following terms:

“You have been working as clerk at KGF-Adersonpet Branch in the Bank since 26-10-1994. It is reported against you as follows:

That you are in the habit of remaining unauthorisedly absent from duties frequently in utter disregard to the leave rules applicable to you, thereby causing inconvenience to the smooth functioning of the Branch. That you are submitting leave application along with medical certificate only on rejoining duties. That in your service so far, you have already availed extra ordinary leave on loss of pay to the extent of 39 months and 07 days as against the total entitlement of 12 months in your total service. That for your lapses of remaining unauthorisedly absent from duties, you were already been cautioned and imposed with various punishments as detailed below:

Ref. No. and Date	Punishment imposed
HRD/DISC/2494/87 Dt.11-08-1987	WARNING
HRD/DISC/1556/89 Dt. 29-03-1989	WARNING
Orders dated 1-1-1992 of CM & DA	Stoppage of one increment for 2 years without cum. effect
Orders dated 19-11-1992 of CM & DA	Stoppage of one increment with cum. effect.
RO/HRD/BLR/1614/96 DT. 26-10-1996	CAUTION
RO/PAD/BLR/2266/97 DT. 16-12-1997	WARNING
Order dated 16-11-1998 of CM & DA	Stoppage of one increments with cum. effect
Order dated 10-08-2000 of CM & DA	Stoppage of two increments with cum. effect
Order dated 9-11-2001 of CM & DA	Stoppage of two increments with cum. effect

That despite imposition of the aforesaid punishments, you have failed to mend your conduct and continue to remain unauthorisedly absent from duties frequently.

1. That you remained unauthorisedly absent from duties between the period 21-9-2002 and 26-9-2002 without prior intimation/prior sanction of leave. That you reported for duties at the Branch on 27-9-2002. That you did not submit the leave application for your aforesaid period of absence at the time of reporting back for duty at the Branch. That only on 8-11-2002 you submitted a leave application of even date seeking sanction of leave for 6 days from 21-9-2002 to 26-9-2002 as sick leave with full pay on medical grounds.

2. That you remained unauthorisedly absent from duties between the period 01-10-2002 and 06-11-2002 without prior intimation/prior sanction of leave. That in this regard, on 23-10-2002 the KGF- Andersonpet Branch sent a telegram followed by a confirmatory letter of even date to your residential address available on Bank records informing that your absence since 1-10-2002 is unauthorized and report for duty immediately. That even though the aforesaid letter was delivered to you on 24-10-2002, you did not report for duties as directed. That finally you reported for duties at the Branch on 07-11-2002 and submitted a leave application of even date seeking sanction of leave for 37 days from 01-10-2002 to 06-11-2002 as sick leave with full pay on medical grounds.

3. That again you remained unauthorisedly absent from duties between the period 11-11-2002 and 25-11-2002 without prior intimation/prior sanction of leave. That you reported for duties at the Branch on 26-11-2002 and submitted a leave application of even date seeking sanction of leave for 15 days from 11-11-2002 to 25-11-2002 as sick leave with full pay on medical grounds. Your aforesaid lapses of remaining absent from duties unauthorisedly without prior intimation/prior sanction of leave, in utter disregard to the leave rules applicable to you, in spite of the Bank imposing upon you various punishments in the past for similar lapses are serious, and if prove, would tantamount to :

“(1) habitual doing of any act which amounts to minor misconduct;

(2) remaining unauthorisedly absent without intimation continuously for a period exceeding 30 days;

(3) wilful insubordination or disobedience to any lawful and reasonable orders of the Management or of a superior; and :

(4) doing acts prejudicial to the interest of the Bank;

gross misconduct under clauses 5(f), 5(p), 5(e) and 5(j) respectively of the Memorandum of Settlement of Disciplinary Procedure dated 10-04-2002 applicable to you.”

3. There being no reply to the charge sheet from the first party Domestic Enquiry was ordered against him and he after having attended the enquiry on the first

sitting held on 04-02-2003 pleaded guilty to the charges of unauthorised absence revealed against him in the said charge sheet and in the result the Enquiry Officer submitted his findings accordingly holding him guilty of the charges. It is said that a second show cause notice along with the Enquiry Report seeking the explanation of the first party was sent to him and after considering his explanation to the above effect and not finding the same satisfactory punishment or discharged was proposed to him under the said second notice was confirmed w.e.f. 11-03-2003.

4. The first party by way of Claim Statement before this tribunal while contending that he was in the service of the management bank for about a period of 18 years as a clerk rendered his service honestly and diligently. He contended that while he was working as a clerk in Andersonpet branch, he applied for leave from 21-09-2002 to 26-09-2002 and then applied leave on medical grounds w.e.f. 01-10-2002 to 06-11-2002 along with the medical certificates, however, the management not considering his leave application and the medical certificate issued him letter/charge sheet dated 16-12-2002 referring to certain earlier instances of his absence from duty and called for his explanation, there upon the management appointed the Enquiry Officer to hold enquiry against him and the Enquiry Officer not conducting the enquiry properly and in accordance with the principles of natural justice submitted his findings. He contended that during the course of the enquiry, the Enquiry Officer and the Presenting Officer told him that if he contests the case the matter will be view seriously and it being a minor misconduct of unauthorised absence he will be imposed with minor penalty in case he did not contest in the enquiry. Therefore, the first party did not dispute the fact of his not attending the duties and explained to the Enquiry Officer that he was on leave on medical grounds submitting medical certificates which were not considered by the management. Therefore, the Enquiry Officer without considering his statement simply recorded the proceedings to the effect that he pleaded guilty and closed the enquiry. In the result, he was not given any opportunity to take the assistance of co-employee and that enquiry conducted against him was not fair and proper, the Enquiry Officer being pre-determined to hold him guilty of the charges. In the result, the findings given by the Enquiry Officer are illegal, arbitrary and perverse. He further contended that the management issued him a notice dated 03-02-2003 proposing the punishment of discharge from services along with the copy of the report but did not give the copy of the Enquiry Report to him seeking comments on the said report before he was proposed with the punishment of discharge from service. Therefore, the action of the management in forwarding the Enquiry Report to him along with the notice proposing the alleged punishment

was against the principles of natural justice and in the result punishment order passed against him based on these findings is illegal and in contravention of the law and in violation of principles of natural justice. He further contended that even assuming that he is guilty of the charges the punishment imposed upon him is most disproportionate to the alleged gravity of the misconduct and this tribunal must exercise its powers under Section 11(A) of the I D Act to interfere with the punishment and therefore he requested this tribunal to set aside the alleged punishment order with his reinstatement into service along with consequential benefits.

5. The management by its Counter Statement while giving the details of the past history of the first party in remaining absent from duty on several occasions as disclosed in the charge sheet and once again repeating the various allegations made against him in the charge sheet contended that when the first party did not give reply to the charge sheet a Domestic Enquiry was conducted against him and on the first date of hearing held on 04-02-2003, the first party having appeared before the Enquiry Officer admitted the charges made in the charge sheet voluntarily and when the allegations made by him now to the effect that he admitted the charges because of assurance given for lenient view are false and concocted, the management further contended that keeping in view the findings of the Enquiry Officer are in turn were based upon the plea of the guilt by the first party and the past record of his service the only punishment the first party deserved was to be removed from service and therefore punishment imposed upon the first party was quite commensurate and proportionate to the gravity of the misconduct committed by him. In the result, the management requested this tribunal to reject the reference.

6. Keeping in view the respective contentions of the parties with regard to the validity and fairness or otherwise of the Enquiry Proceedings this tribunal on 04-07-2005 framed the following preliminary issue:

“Whether the Domestic Enquiry conducted by the II Party against the I party is fair and proper?”

7. During the course of the trial of the said issue the management examined Enquiry Officer as MW 1 and got marked 12 documents at Ex. M-1 to Ex M-12 including the findings of the Enquiry Officer, the proceedings of the enquiry and the punishment order imposed upon the first party. The first party examined himself as WW 1 and in his deposition for marked two documents at Ex. M-13 and Ex M-14 namely, the Delivery Book and Copy of Appeal Memo filed by the first party. After having heard the learned counsels for the respective parties this tribunal by order dated 26-07-2006 recorded a finding in favour of the management holding that enquiry conducted against the first party is fair and proper. Thereupon, I

have heard learned counsels on the merits of the case i.e., on the point of alleged perversity on the findings of the Enquiry Officer and quantum of punishment.

8. Learned counsel for the first party in his arguments submitted that the period of absence in this case is hardly of 58 days and that on all the three occasions when the first party failed to report to duty he had submitted his leave application with medical certificates and therefore first of all it cannot be the case of unauthorized absence and secondly keeping in view the short period of 58 days, the punishment imposed upon him is highly excessive and uncalled for. He also contended that the first party pleaded guilty to the charges with a clarification that his absence from duty was on account of his ill health and his leave application was supported by the medical certificates and therefore findings of the Enquiry Officer not disclosing this fact suffered from perversity.

9. Whereas, learned counsel for the management while supporting the Enquiry Findings contended that the first party in no uncertain terms and of his volition when was read over with the charges by the Enquiry Officer pleaded guilty to the charges without taking the assistance of any co-employee and without asking the Enquiry Officer to conduct the enquiry any further. Therefore, learned counsel submitted that when the first party pleaded guilty to the charges now he cannot challenge the Enquiry Findings passed on his plea of guilt and contend before this tribunal that his absence from duty was on account of his ill health supported by any medical evidence. He also contended that the story of the first party that he was not keeping well is false and contradictory as before this tribunal he came out with a case that he himself was suffering from illness and whereas by way of appeal he preferred against the punishment order marked at Ex. M-14 before this tribunal he came out with a case that it is on account of ill health of his mother-in-law and her subsequent death, he had to look after her to remain absent from duty between 01-10-2002 and 6-11-2002. Therefore, learned counsel submitted that keeping in view the past record of the first party indicate in the charge sheet and the present misconduct committed by him having been admitted by the first party without any qualification no fault can be found with the findings of the Enquiry Officer and in the result it cannot be said that the impugned award passed against him was bad in law or was against the principles of natural justice. On going through the proceedings of the enquiry as well as through the findings, I find substance in the arguments advanced for the management as far as proof of the misconduct committed by the first party. It can be read from the proceedings of the enquiry that when first party appeared before the Enquiry Officer on 04-02-2003 and was read over with the charges he in clear words stated that he has received the charge sheet and understood its

contents and then pleaded guilty to the charges levelled against him. He was infact asked whether he pleads guilty to the charge or claims to make any defence to this his answer was to the above effect. It is based on this plea of the first party the Enquiry Officer thought it unnecessary to hold further enquiry into the matter by asking the management to produce oral or documentary evidence. This action of the Enquiry Officer in not proceeding ahead with a full dressed enquiry in the light of the plea of the guilt cannot be said to be illegal or against the principles of the natural justice, there are catena of decisions by the Hon'ble Supreme Court as well as High Court on the point that when the delinquent pleads guilty to the charge there is no need for the Enquiry Officer to go ahead further in the matter conducting a regular enquiry i.e., an enquiry calling upon the management to prove the charges. Therefore, when the Enquiry Findings are based upon the plea of the guilt made by the first party now there is nothing to be read in this findings so as to suggest that they suffered from any perversity and that they were at the result of any biased against the first party or in favour of the management. In the result findings of the Enquiry Officer holding the first party guilty of the charges are held to be fair, proper and legal.

10. Now, coming to the question of quantum of punishment, the fact that the first party has been remained absent from duty unauthorisedly on several occasions and that during the service he rendered with the management for a period of about 18 years availed Extra Ordinary Leave on loss of pay to the period of 39 months and 7 days as alleged in the charge against remained undisputed by the first party. From the conduct of the first party not disputing seriously, it is crystal clear that he has been remaining absent from duty at his will and shall then reporting for duty as and when he desired submitting his leave application along with certain so called the medical certificates. He appears to have dissent respect rather any regard for job and his duties for which he is employed by the management bank. Therefore such an employee who is absolutely in records for his duties and responsibilities that too as a clerk and working in the banking institution no fault can be head with the management when it gets rid from the service of such an employee who has become useless for the institution for all purposes. However, in my opinion, having regard to the charge of misconduct committed by the first party not involving the moral turpitude and taking into action the fact that he was in the service of the management for a period of about 18 years it appears to me that ends of justice will be met if he is retired from service compulsorily so that he can have the service benefits and other benefits available to him under the scheme of compulsory retirement. Hence the following order:

ORDER

The impugned punishment order discharging the first party from service is hereby modified by the punishment of compulsory retirement from the date of the impugned order. No order to costs.

(Dictated to D.C. described by him corrected and signed by me on 25th October, 2007)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 26 नवम्बर, 2007

का. आ. 3466.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, बंगलोर के पंचाट (संदर्भ संख्या 25/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2007 को प्राप्त हुआ था।

[सं. एल-12012/186/2000-आई. आर. (बी-11)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 26th November, 2007

S.O. 3466.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 25/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure in the industrial dispute between the management of Indian Bank and their workmen, received by the Central Government on 13-11-2007.

[No. L-12012/186/2000-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE-560 022

Dated : 29th October, 2007

PRESENT : Shri A. R. SIDDIQUI, Presiding Officer

C. R. No. 25/2001

I Party

Shri Harihar Bhatt,
S/o M. Rama Rao,
C/o the General Secretary,
Dharwad District
Employees Asson.
9, Corporation
Building, Broadway
Hubli -580020

II Party

The Regional Manager,
Indian Bank,
Regional Office,
Sujatha Complex,
Hubli-580020

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-12012/186/2000-IR(B-II) dated 28th March, 2001 for adjudication on the following schedule:

SCHEDULE

"Whether the action of the management of India Bank in dismissing Shri Harihar Bhatt wef. 4-4-2000 from service is justified and legal? If not, What relief the concerned workman is entitled to?"

2. A letter dated 21-5-1999 by way of charge sheet marked at Ex. M1 from this tribunal came to the served upon the first party in the following terms:-

"I refer to show cause notice dated 9-1-1999 and your reply dated 24-3-1999. Your reply is not satisfactory. Further I observe that you have not reported for duty at Karwar branch till now and not responded to our above referred letter dated 13-4-1999. Therefore, the following charges are framed against you.

You are unauthorisedly absent from duty since 24-6-1996. This act of yours, if proved, amounts to "unauthorised absence and remaining unauthorisedly absent without intimation continuously for a period exceeding 30 days," a gross misconduct as per 19.5(p) of 6th Bipartite Settlement dated 14-2-1995.

You have not reported for duty at Karwar branch as per bank's order dated 15-6-1996. Though you were relieved from Sirsi branch on 22-6-1996. This act of yours amounts to "willful insubordination or disobedience of any lawful or reasonable order of the management or of a superior", a gross misconduct as per clause 19.5(e) of the 6th Bipartite Settlement dated 14-2-1995.

I am appointing Mr. A. K. Mahaishi, Senior Manager, Regional Office Hubli as the enquiry officer, to conduct a departmental enquiry into the above cited charges.

He will intimate you the date, time and venue of the enquiry. The enquiry will be conducted as per the provisions laid down in the Bipartite Settlement dated 19-10-1966 as amended from time to time.

You may submit your explanation and evidence that you wish to tender in your defence during the enquiry. Please note that the enquiry will be proceeded in your absence, if you do not appear at the appointed date, time and venue of the enquiry".

3. Not being satisfied with the explanation offered by the first party, a Domestic Enquiry was ordered against him and on the conclusion of the DE, enquiry findings were submitted by the enquiry officer vide Ex. M7 holding him guilty of both the charges of misconduct levelled in the above said charge sheet. He was served with enquiry report along with the second show cause notice proposing the punishment of dismissal from service and after having given him the opportunity of personal hearing, punishment proposed was confirmed.

4. The first party by way of his claim statement before this tribunal, while, challenging the enquiry proceedings on the ground that they were not conducted in accordance with principles of natural justice and in accordance with the terms of Bipartite Settlement also challenged the enquiry findings as suffering from perversity and the punishment order passed against him as illegal and

unjustified. The sum and substance of the case of the first party as made out in the claim statement is to the effect that while he was working as a Clerk in Sirsi branch, on 22-06-1996, he was relieved from work suddenly at the closing hours of the day with a direction to report at Karwar Branch about 100Km away, on the next working day he was informed that it is by way of deputation. He was not given timely notice nor paid monetary allowances eligible to him in the case of deputation; that he fell sick by this unreasonable order of the management and the doctor advised him not to leave the place and to take rest. He informed the bank about these developments and after recovery from illness he reported back to Sirsi branch but the branch Manager did not allow him to work and also did not allow him to sign the attendance register though he reported daily to Sirsi branch and remained in the bank during the working hours throughout the day. Therefore, he reported every day to Sirsi branch to give him any work but was not obliged. Then he received the charge sheet dated 21-05-1999 and without giving him the opportunity to give the reply to the charge sheet, enquiry officer was appointed; that the charges of misconduct leveled against him that he remained absent from duty unauthorisedly and committed willful insubordination or disobedience of any lawful or reasonable order amounting to gross misconduct as per clause 19.5(e) of the BPS were not only levelled against him by way of victimisation but also were not proved during the course of enquiry. He contended that as per the Bipartite Settlement there are no provisions to send an employee on deputation without informing the period of deputation that too for years together. He also contended that there is no misconduct committed by him for not reporting duty on deputation and he committed no misconduct in reporting back at Sirsi Branch where he was working at the time of deputation. Therefore, the first party requested this tribunal to set aside the dismissal order passed against him and to reinstate him in service with all consequential benefits.

5. The management by its Counter Statement, while, contending that the first party was deputed to Karwar branch by way of administrative decision but failed to report for duty at Karwar Branch on the false pretext that he was not keeping well. He remained unauthorisedly absent from duty at Karwar Branch and to cover up his fault he came up with the contention that he was refused work at Sirsi branch of the management despite being transferred to Karwar branch on deputation. He has nothing to do with Sirsi branch after he was transferred on deputation. The management further contended that the deputation of the first party was within the district and his contention that it was done with malafide intention is far from truth. The management also refuted the allegation of the first party that the enquiry was not conducted in accordance with the principles of natural justice or in terms of Bipartite Settlement. The management contended that though opportunity was given to the first party to prefer an appeal against the impugned punishment order, he did not avail the same, therefore, the first party having failed to exhaust the alternative remedy, has rushed this tribunal and in the result, in this count, itself, reference is liable to be dismissed. The management also contended that in passing the

dismissal order against the first party, there is no violation of any rules or terms of the Bipartite Settlement nor the first party was victimised and that he has been dismissed from service keeping in view the gravity of the misconduct committed by him. Therefore, the management requested this tribunal to reject the reference.

6. Keeping in view the respective contentions of the parties, with regard to the validity and fairness or otherwise of the enquiry proceedings, this tribunal on 9-9-2004 framed the following Preliminary Issue: "Whether the Domestic Enquiry conducted against the first party by the Second Party is fair and proper?"

7. During the course of trial of the said issue, the management examined the enquiry officer as MW1 and got marked seven documents at EX.M1 to M7 including the proceedings of the enquiry and the enquiry report. The first party by way of rebuttal gave his statement and after hearing the learned counsel for the management and the first party in person, this tribunal by order dated 22-09-2006 recorded a finding on the above said issue in favour of the management holding that the Domestic Enquiry conducted against the first party by the Second Party is fair and proper. Thereafter, the matter came to be referred to hear the parties on the point of alleged perversity in the findings and on the point of the quantum of the punishment. From 13-10-2006 till 5-9-2007, the case underwent several adjournments giving opportunity to the first party (who defended himself in person) to advance his arguments on the above said two points but he did not turn up and in the result after consulting the learned counsel for the management, the case is posted this day for award.

8. Learned counsel for the management while supporting the enquiry findings further submitted that the fact that the first party did not join the duty at Karwar Branch having been relieved from duty on deputation from Sirsi branch till the charge sheet in question came to be served upon him and subsequent thereto has not only been proved by way of oral and documentary evidence during the course of enquiry but also is the fact very much admitted by the first party himself, but with a rider that he did not report for duty at Karwar branch as was not keeping well. Learned counsel submitted that the only defence taken by the first party in his claim statement as well as during the course of enquiry was to the effect that the deputation order against him was not in accordance with the rules as no period was fixed for deputation or he was not paid certain eligible expenses and that he could not report for duty at Karwar Branch on account of his ill health. Therefore, learned counsel submitted that enquiry findings which are based on oral and documentary evidence, legal and sufficient and also in the light of the very admission made by the first party, by no stretch of imagination it can be said to be suffering from any perversity. He also submitted that the first party has failed to appear before this tribunal to point out any legal or factual defect in the findings and in the result, they cannot be interfered at the hands of this tribunal.

9. As far as the quantum of the punishment concerned, learned counsel submitted that the first party

has committed gross misconduct of remaining absent from duty continuously for a period of more than 30 days and committed the misconduct of insubordination and disobedience of lawful orders of the management, once again a gross misconduct under the terms of the Bipartite Settlement and therefore, he did not deserve a punishment lesser than the punishment of dismissal.

10. On going through the records, I find substance in his arguments. The learned enquiry officer while answering the Charge No.1 levelled against the first party in his findings on pages 3 & 4 gave reasonings as under: "First I deal with Charge No. 1 viz, unauthorised absence from duty by Shri H.S. Bhat(CSE) since 24-06-1996. The presenting officer basis his argument on MEX-3 which is a letter by Sirsi branch to Karwar branch informing of CSE from Sirsi to Karwar. The defence assistant does not dispute the MEX-3. However, he says it is not addressed to CSE, but only a copy of it is handed over to CSE and it is meant to victimize him since period of deputation is not mentioned. CSE has acknowledged the letter vide MEX-4 and has informed that he is not well and hence reporting only at Sirsi. MEX 5 is a letter from branch manager Sirsi to CSE to obey the orders and report at Karwar branch. CSE instead of reporting at Karwar branch has gone on writing letters to Zonal Manager vide DEX 3,4,5 etc. informing that he attended office at Sirsi, but was not given any work by Manager. However, his statement is refuted by MW-9 Who was Manager of Sirsi Branch, during his cross examination. Also, MEX.6 which is admitted by DA is a letter from Zonal Manager which clearly informs CSE that the question of his reporting at Sirsi branch does not arise as he has been relieved from the branch. The DA has objected to the placing of MEX-8 to 17 as evidence. His objections are over ruled by me. These documents have shown that the CSE was in the habit of disobeying orders of his superiors even in the earlier period also. Senior Manager, Karwar branch vide his letter dated 27-03-1998 (MEX-18) has informed that CSE has not report for duty from 24-06-1996 in his branch. Zonal Manager has given CSE one more opportunity to go and report at Karwar within 7 days from receipt of the letter (MEX-19). However, CSE never reported at Karwar as can be seen from Karwar branch letter dated 29-06-1999 addressed to Regional Manager, Hubli(MEX-21).

The case in his written statement questions the basis of his deputation and says it is only to harass and victimize him. He states he was not allowed to report for duty at Sirsi branch. This shows that CSE instead of obeying the orders of his higher authorities by reporting at Karwar has been insisting on reporting at Sirsi branch only. In the cross-examination of MW1, Q.12 the DA has merely twisted the answer to suit CSE taking only first part of the answer and leaving the second part as not relevant at all. The question and the reply are as follows:

Q. The CSE has reported for duty from 24-06-1999 onwards continuously to Sirsi branch. You have not allowed him to work for duty. What do you say ?

A. The CSE has been given enough opportunity and time Zonal Manager to go and report at Karwar Branch.

However the CSE has merely chosen to remain absent from duty and did not report at Karwar. He was given one more opportunity by Zonal Manager before issue of charge sheet. But the CSE did not report for duty. All along he has stated he is unable to go due to ill health, but has not given any proof.

Now from the evidence given by MW2, it can be seen that the CSE used to remain unauthorisedly absent and CSE was doing business in the name of Spoorthy Shares Service which has been shifted to Hubli. As proof presenting officer has produced a list which contains the name of Smt. Parvathi H Bhat. The same is confirmed by MW3. As it is outside the purview of charge sheet, I am not basing my judgment regarding CSE carrying on share business or not. I conclude that charge No.1, namely the employee has remained unauthorisedly absent from 24-06-1996 is proved by presenting office and I agree fully.

11. Similarly, while giving his finding on charge No.2, learned enquiry officer observed as under :-

"Charge No.2 is Mr. H.S.Bhat has not reported for duty at Karwar branch as per bank's order dated 15-06-1996, though he was relieved from Sirsi branch on 22-06-1996. A letter dated 27-03-1998 from Senior Manager, Karwar branch addressed to Sirsi branch Manager under copy to Regional Manager, Hubli and Zonal Manager, Bangalore informs that Shri H.S.Bhat who was on deputation to their branch has not reported till date. Another letter dated 29-06-1999 from branch Manager, Karwar to Regional Manager, Hubli informs that Shri Bhat Clerk/Shroff on deputation to their branch has not reported for duty so far. It is conclusively proved that the CSE has not reported for duty at Karwar branch as per bank's order dated 15-06-1996 though he was relieved from Sirsi branch on 22-06-1996."

12. Therefore, from the reading of the above said observations and reasonings given by the enquiry officer in holding the workman guilty of the charges, by no stretch of imagination, it can be said that they in any way suffered from perversity. These are the findings based upon sufficient and legal oral and documentary evidence much less, the very admissions made by the first party by way of his defence during the course of enquiry. As noted above, by way of claim statement before this tribunal, again the first party did not deny the fact of his remaining absent from duty at Karwar branch after having been relieved from Sirsi branch on deputation in the year 1996. He undisputedly, did not report for duty at Karwar branch despite the fact that he was relieved from duty at Sirsi branch on 22-06-1996. The charge sheet as noted above, came to be issued against him on 21-05-1999 and till that date admittedly he did not report for duty at Karwar Branch in obedience to the order transferring him from Sirsi Branch to Karwar branch on deputation. Therefore, the case on hand is not only a case of unauthorised absence from duty but a glaring instance of a workman disobeying the lawful orders of his master taking shelter under some lame excuses. It is to be noted that he took up the contention that he was not keeping well but never produced any document or proof to establish his contention. Therefore, having regard to the oral and documentary evidence brought on record during the course

of enquiry and keeping in view the valid and cogent reasonings given by the enquiry officer holding the first party guilty of the charges, it must be held that findings of the enquiry officer suffered from no perversity and therefore, not liable for interference at the hands of this tribunal.

13. Now coming to the question of punishment. Learned counsel for the management rightly contended that the misconduct committed by the first party was a gross misconduct and having taken into account the untendable stand and indifferent attitude of the first party in not obeying the lawful orders of the management, that too, on some baseless contentions, the management was justified in getting rid of the services of the first party. I find substance in his arguments. As can be read from the records, the first party did not bother to report for duty at Karwar branch continuously for a period of more than 3 to 4 years from the date of order of transfer passed against him by way of deputation. Therefore, such an irresponsible employee cannot be tolerated by the institutions such as bank institution where the staff of the bank is supposed to carry out essential services of urgent in nature in serving the public at large. Therefore, punishment of dismissal passed against the first party cannot be said to be disproportionate to the gravity of the misconduct committed by him. In the result the reference is liable to be rejected and hence the following award is passed.

AWARD

(Dictated to PA transcribed by him corrected and signed by me on 9th October 2007)

The reference is rejected. No costs.

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 26 नवम्बर, 2007

का. आ. 3467.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलोर के पंचाट (संदर्भ संख्या 5/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2007 को प्राप्त हुआ था।

[सं. एल-12012/176/2004-आई. आर.(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 26th November, 2007

S.O. 3467.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 5/2005) of Central Government Industrial Tribunal-cum-Labour Court, BANGALORE as shown in the Annexure in the industrial dispute between the management of Vijaya Bank, and their workmen, received by the Central Government on 13-11-2007.

[No. L-12012/176/2004-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE
BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE-560 022

DATED 24th OCTOBER, 2007

PRESENT
Shri A. R. SIDDIQUI

Presiding Officer

C. R. No. 05/2005

I Party

Shri Manohar Shetty,
 S/o Sh. Vital Shetty,
 Kuppepadav,
 Kilinjar Village Taluk,
 Mangalore,

II Party

The General Manager,
 Vijaya Bank, Head Office,
 No.41/2, Trinity Circle
 M G Road,
 Bangalore-1.

APPEARANCES

I Party : Shri Ravi Hegde,
 Advocate

II Party : Shri Udayshankar Rai,
 Advocate

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-Section (1) 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/176/2004/IR(B-II) dated 17-12-2004 for adjudication on the following schedule:

SCHEDULE

"Whether the action of the management of Vijaya Bank in imposing the punishment of removal from service of Shri Manohar Shetty w.e.f. 22-11-2000 is legal and justified? If not, what relief the workman is entitled to?"

2. A charge sheet 14-01-2000 came to be issued against the first party alleging that he remained absent from duty unauthorisedly from 13-09-1999 onwards continuously till the date, without prior intimation/sanction of leave and without submission of any leave application. and that he failed to comply with the instructions of his Official Superiors in reporting for duty as well as failed to attend the medical examination to be conducted upon him. It appears that charge sheet could not be served upon the first party though was sent under Registered Post and there upon an enquiry was conducted against him exparte, as notice of enquiry also could not be served upon him sent under Registered Post to his address available with the management. On the conclusion of the enquiry, Enquiry Report was submitted holding that first party guilty of the aforesaid two charges. Enquiry Report copy also could not be served upon him and so also disciplinary order proposing the punishment of removing him from service also could not be served upon him for the reasons that he was not available at the address given with the management. In the result proposed punishment removing him from service came to be confirmed w.e.f. 22-11-2000.

3. The first party by way of claim statement before this tribunal not disputing the fact that he did not attend the work from 30-9-1999 onwards, however, submitted that he could not attend the duty on account of suffering from loss of health and mental imbalance and that because of depression he was wandering from place to place and in the result he was neither served with the charge sheet nor was aware of the Domestic Enquiry being held against him. The first party, therefore, challenged the impugned punishment order passed against him contending that he was in the service of the management for more than 23 years without giving any room for any complaint or committing any misconduct at any point of time.

He contended that keeping in view the fact that he was not keeping well and the fact that his absence from duty was not intentional and also for the reason that he did not commit any misconduct involving moral turpitude, the punishment imposed upon him was not proportionate to the gravity of the misconduct of unauthorized absence committed by him. Therefore, he requested this tribunal to take lenient view and to modify the impugned punishment order by imposing a lighter punishment.

4. The management by its counter statement, however, contended that the first party has been in the habit of remaining absent from duty unauthorisedly even earlier to the present charge sheet. He remained unauthorisedly absent from duty on various occasions for a period of about 228 days between 24-05-1996 to 01-01-1997 for which misconduct he was served with the charge sheet and ultimately was imposed the punishment of stoppage of one increment temporarily for a period of one year by order dated 11-08-1998; that the first party despite the above said punishment did not improve his attitude and again remained absent unauthorisedly from duty from 13-09-1999 without prior intimation or sanction of leave and without submitting leave application in violation of the leave rules of the bank. He also failed to report for duty despite being sent letters dated 23-10-1999 and 04-11-1999 and that he did not comply with the instructions given by the management to subject himself for medical examination on 29-11-1999 by the management doctor so as to ascertain the genuineness or otherwise of his sickness. Therefore, the management conducted the Domestic Enquiry against him and on the basis of the Enquiry Findings, holding him guilty of the charges of unauthorized absence and for the non-compliance of the instructions given by the management to report for duty and to subject himself for medical examination and in the result, he was removed from service and therefore the impugned punishment order is proportionate and reasonable, keeping in view the gravity of the charges of misconduct leveled against him and so also in the light of his past record in remaining absent from duty on several occasions. In the result, the management requested this tribunal to reject the reference.

5. Having regard to the respective contentions of the parties, this tribunal on 04-07-2005 framed the following preliminary issue:

"Whether the Domestic Enquiry conducted by the II party against the I party is fair and proper?"

6. After due trial of the said issue, this tribunal by order dated 10-04-2007 recorded a finding on the above said issue in favour of the management holding that the Domestic Enquiry held against I party is fair and proper. Thereupon, I have heard the learned counsels for the respective parties on the point of the alleged perversity of the findings and the quantum of the punishment.

7. Learned counsel for the first party in his arguments submitted that the case of the unauthorized absence proved against the first party during the course of enquiry did not warrant the severe punishment of removal from service, particularly, when the first party was suffering from mental depression and disorder even to the knowledge of the management. He submitted that in similar other cases the workmen even were given the benefit of Voluntary Retirement Scheme (VRS) and therefore, keeping in view the alleged misconduct committed by the first party and the fact that the first party was charge sheeted for unauthorized absence only for a period of two to three months, punishment of dismissal/removal his service was harsh to be modified by this tribunal while exercising the powers under Section 11 (A) of the ID Act.

8. Whereas, learned counsel for the management while supporting the findings of Enquiry Officer argued that though the first party was removed from service and received all the service benefits, raised the dispute after three years of the punishment order and that he could not have been given the benefit of the Voluntary Retirement Scheme on account of the misconduct committed by him and now also his case cannot be considered for Voluntary Retirement Scheme as the Voluntary Retirement Scheme has come to an end on 31-01-2002 itself.

9. After having gone through the records, more particularly, the Enquiry Findings and the very averments in the claim statement of the first party I do not find anything wrong with the findings of the Enquiry Officer in holding the first party guilty of the charges leveled in the charge sheet. The fact that the first party remained unauthorisedly absent without prior intimation/sanction or without submitting any leave application, much-less, accompanied by medical certificate has never been disputed by the first party in his claim statement. Infact, he has admitted those facts. The only grievance he has made out against impugned punishment order is that for the misconduct of unauthorized absence he should not have been imposed the punishment of removal from service particularly when as per the earlier report of the management Doctor he was suffering from mental disorder and depression and in view of the fact that he rendered unblemished service of about 23 years without complaint from either by his superiors or from any other corner. Therefore, the findings of the Enquiry Officer holding the workman guilty of the charges cannot be faulted with is noted above, learned counsel for the first party did not challenge the Enquiry Findings pointing out any factual or legal defect. As could be read from the findings there was sufficient oral and documentary evidence produced during the course of enquiry to establish the charges of misconduct leveled against the first party.

10. At the cost of the repetition, it is to be noted that the first party did not dispute that he remained absent from duty without any intimation/sanction of leave or without submitting any leave application. Therefore, it is to be held that charge of misconduct of unauthorized absence has been very much proved. The fact that he did not report for duty despite being called upon by the management under the aforesaid two letters and the fact that he did not subject himself for medical examination by the management Doctor also is not disputed by the first party except to say that he was not served with those two letters issued by the management. In the result, Enquiry Findings do not suffer from any perversity and therefore they cannot be interfered at the hands of this tribunal. Now coming to the question of quantum of punishment, undisputedly, the period of unauthorized absence as per the charge sheet was from 01-10-1999 till 14-1-2000 on which date charge sheet was issued. Therefore, it was the case of the unauthorized absence for a period of about 3½ months and for such a short period of absence, as argued for the first party the punishment removing him from service certainly appears to be shockingly disproportionate. The fact that the first party remained unauthorisedly absent earlier to this charge sheet cannot be taken into consideration as it was not the subject matter of the charge sheet or the enquiry conducted against him. The other charge leveled against the first party that he did not report for duty despite the letters issued by the management and that he did not subject himself for medical examination by the management Doctor again was not very grave in nature particularly in the light of the undisputed fact that those letters issued to the first party remained unserved for one reason or the other. Now, therefore having regard to the facts and circumstances of the case and the stand taken by the first party himself i.e., he is suffering from depression and mental disorder, it does not appear to be fit case to reinstate him into service, however, in my opinion ends of justice will be met if the punishment imposed upon him removing him from service is modified by punishment of compulsory retirement as he cannot be given benefit of VRS which scheme is no more in existence. Hence, the following order:

ORDER

The impugned punishment order in removing the first party from service is hereby modified by an order of Compulsory Retirement from the date of the impugned order with all service benefits available under the scheme on Compulsory Retirement taking into account the payments already made to him subsequent to the punishment order and the service benefits awarded to him thereafter. No order to costs.

(Dictated to U.D.C. transcribed by him, corrected and signed by me on 24th October, 2007)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 26 नवम्बर, 2007

का. आ. 3468:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 18/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-11-2007 को प्राप्त हुआ था।

[सं. एल-12011/263/2000-आई.आर.(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 26th November, 2007

S.O. 3468.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2001) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure in the industrial dispute between the management of Allahabad Bank and their workmen, received by the Central Government on 02-11-2007.

[No. L-12011/263/2000-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

SANT SINGH BAL PRESIDING
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, NEW DELHI

I.D. NO. 18/2001

In the matter of dispute between :—

Shri Raj Singh S/o Sh. Juble Ram
Through All India Allahabad Bank Emps'
Union, The General Secretary,
All India Allahabad Bank Employees Union,
Allahabad Bank, Baroda House,
New Delhi-110001.

...Workman

Versus

Allahabad Bank,
The Regional Manager,
AB, Regional Office,
13/34-Arya Samaj Road,
Karol Bagh,
New Delhi-110005.

...Management

APPEARANCES

: Workman in person with
Shri P. C. Sen and
Shri R. S. Saini

AWARD

The Central Government, Ministry of Labour vide its Order No. L-12011/263/2000/IR-(B-II) dated 12-2-2001 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the action of the management of Allahabad Bank, New Delhi in not promoting Shri Raj Singh Sweeper in full time scale/wages is legal and just? If not, what relief the said workman is entitled to and from what date?"

2. After completion of pleadings and evidence of the parties the case was fixed for final arguments on 23-10-2007. On 1-10-2007 Shri P. C. Sen General Secretary of Allahabad Bank Employees' Federation—Delhi moved an application stating therein that Shri Raj Singh workman is member of his Union and he had a discussion with the management who agreed upon to settle the case amicably. Hence Shri Raj Singh is willing to withdraw his case and he has also moved an application for withdrawal of his case. Statement of workman as well as Shri P. C. Sen was recorded on 1-10-2007. Shri Rajat Arora A/R for the management stated that he had no objection if the workman was allowed to withdraw from the prosecution of the claim and a No Dispute Award is passed in this case on the basis of the statement made by the workman and his A/R today in the court. The case was adjourned to 23-10-07 as already fixed. Today Mr. P. C. Sen made a statement that the workman will get wages of full time worker and other benefits admissible to the full time worker. In case he is not given the full time wages as stated (he) the workman may approach the court and revive the reference. Mr. R. S. Saini claims that he is also President of the Union and he has no objection to the withdrawal of the claim by the claimant.

In view of the above statment of parties No Dispute Award is passed in this cost with liberty to the workman to revive the reference if he is not given the full time wages and other benefits admissible to the full time worker as stated above. File be consigned to record room.

SANT SINGH BAL, Presiding Officer

नई दिल्ली, 27 नवम्बर, 2007

का. आ. 3469:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब व सिन्ध बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय लखनऊ के पंचाट (संदर्भ संख्या 71/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13-11-2007 को प्राप्त हुआ था।

[सं. एल-12012/5/2001-आई.आर.(बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 27th November, 2007

S.O. 3469.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 71/2001) of Central Government Industrial Tribunal-cum-Labour Lucknow as shown in the Annexure in the industrial dispute between the management of

Punjab & Sind Bank and their workmen, received by the Central Government on 13-11-2007.

[No. L-12012/5/2001-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT LUCKNOW**

PRESENT

SHRIKANT SHUKLA, Presiding Officer

I. D. No. 71/2001

Ref. No. L-12012/05/2001/IR(B-II)

Dt. 27-4-01

BETWEEN

Sri Jasbeer Singh
S/o Sri Iqbal Singh
R/o M 1026, Sarai Masrullah
behind Police Station Dehat,
Khurja
Bulandshahr (U.P.)

And

Punjab and Sind Bank
The General Manager
P & S Bank House, 6th Floor
21 Rajendra Place,
New Delhi.

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute vide order No. L-12012/05 2001-IR(B-II) dated 27-4-01 for adjudication to the Presiding Officer, CGIT-cum-Labour Court, Lucknow;

"Whether the action of the management of Punjab and Sind Bank in terminating/dismissing the services of Sri Jasbeer Singh w.e.f. 22-2-92 is just fair and legal? If not for what relief he is entitled and from what date?"

The admitted facts of the case is that;

1. The workman was appointed a Clerk in the Punjab & Sind Bank (which shall hereinafter called as Bank). He was served with the charge sheet dt. 12-9-90. The allegation in the charge sheet was that while he was working as Teller on 17-10-89 he fraudulently withdrawn money as per details given below :

Account No.	Amount
SB A/C no. 3564	3000/-
SB A/C no. 5199	7000/-
SB A/C no. 2669	6000/-
SB A/C no. 4682	3900/-
SB A/C no. 5306	8000/-

2. The worker was also charged for inhancing the credit balance of SB A/c No. 5306 later on withdrew the money under fraud signatures & replaced the original account sheet SB A/c no. 5199 with forged sheet. He was also charged for forgoing the initials/signatures of two officers of the Bank as admitted by the worker vide his letter dated 17-11-89. Charge sheet served was under clause 19.5(d) and 19.5(j) of the Bipartite Settlement dated 13-10-66. Workman conferred the charges.

3. The fact is also admitted that the workman was dismissed vide order dated 22-6-92. The order read as follows :

No. RM/CZ/MRT/Insp/DAC/3

22-6-92

FINAL ORDER

After going through the enquiry report/findings submitted by the enquiry officer as well as the previous bank's record of Mr. Jasbir Singh, Clerk, RO, Meerut, I gave my findings and proposed punishment in this matter vide my letter No. RM/MRT/CZ/Insp/DAC/3 dated 9-11-91 On 13-11-91, I heard personally Mr. Jasbir Singh about the proposed punishment. He pleaded for mercy in view of his family circumstances, I have given careful consideration to his plea, but I could not persuade myself to take a lenient view, as his acts in the bank had been repeatedly instances of gross misconduct. The fact is that Jasbir Singh did not care about the reputation of this esteemed institution. Mr. Jasbir Singh repeatedly withdrew money fraudulently from the different accounts of valuable clients of the bank who had reposed their confidence in the bank and placed their hard earnings/savings with out.....Mr. Jasbir Singh prejudiced to the interest of the bank and involved the bank in a pecuniary loss. So taking any lenient view for such repeated gross misconduct would convey wrong signals to other staff members in particular and to public in general.

I have, therefore, come to the conclusion that the proposed punishment cannot be reduced and it should be confirmed. I therefore, in the interest of general public who constitute out esteem clientage. impose the following punishment on Jasbir Singh, the charge sheeted employee who is found guilty as charged. Mr. Jasbir Singh is dismissed with notice from the Bank's service forthwith in terms of para 19.6 (a) of Bipartite Settlement dt. 10-10-1966.

Consequently to the pecuniary loss of Rs. 28,700/- (Rs. Twenty eight thousand seven hundred only) caused to the bank by the miscount of Jasbir Singh, it has been recovered from his salary in instalments as he could not deposit the amount in lump sum. The interest @ 25% on original amount from the date of commission of fraud would be recovered from the terminal benefits due to Sri Jasbir Singh.

Ordered Accordingly

Sh. Jasbir Singh
H.No. 20 Gali No.4
Thapar Nagar
Meerut

sd/-
(M.S. Juneja)
Regional Manager
(Disciplinary Authority)

Worker's case is that before service of Charge Sheet; "the workman had tendered his written apology confessing the charge."

It is also pertinently be mentioned here that before the service of the charge sheet the workman had already deposited Rs. 13,000/- and after the service of the charge sheet upon him and before submitting his reply to the charge sheet the workman deposited the rest of entire illegally demanded amount of Rs. 28,700/-

It is alleged that in the year 1986 the workman met an accident in which his left leg was smashed into pieces and he was hospitalised for a very long time and thus he remained under medical leave, sanctioned by the management.

It is also alleged that after having been discharged from the hospital the workman had 30% percent disability due to which he was quite disturbed mentally also because on his medical treatment and on account of other tragedies which took place in his family he became totally broken financially and his family was on the verge of starvation.

It is alleged that since 1988 the mother of the workman was suffering from acute blood pressure which resulted in paralytic attack in the year 1989. Due to Paralysis she had become totally infirm.

It is stated that the mother of the workman was totally dependent on the workman for whom too he had to spend a lot for her medical treatment.

It is also alleged that by order dated 22-6-92 the workman was illegally dismissed from bank service without considering his distressing circumstances. His good intention is reflected itself from his act that he made good the money and also his articleless written confession to the management.

It is alleged that the workman is the only earning member in his family and since his dismissal he is totally without any employment. His one son and daughter are studying in higher classes and it seems that they shall have to discontinue their studies due to financial crisis which the family of the workman is facing.

It is alleged by the worker that the opportunity of independent witness has not been given for examination under Bipartite Settlement.

Worker alleged that the reply was not considered by the enquiry officer.

Worker alleged that the punishing/dismissing authority in the present case of the workman is not competent to dismiss the workman as he is not the appropriate authority. It is alleged that the punishment is too harsh and quite disproportionate to the charges against the workman. It is stated that no document was given during the enquiry proceedings. It is also alleged that only 2 charges were framed against the workman while 3 punishment have been given to the workman. It is alleged that in terms of paragraph 19.14 of the Bipartite Settlement dt. 19-10-66 as subsequently amended by Bipartite Settlement dated 31-10-79 and chairman and the managing director of the bank is empowered to appoint disciplinary

authority or appellate authority. Since the said authorities have not appointed the Dy. General Manager as disciplinary authority and General Manager as appellate authority the entire process of issuing charge-sheet, intention of enquiring and punishment order/dismissal order are illegal and unjustified. It is stated that the findings of enquiry officer are illegal and perverse. It is also alleged that the workman's confession under pressure by the management. It is stated that the recovery of the money is illegal. It can only be made by filing a regular suit for recovery in the competent court of law.

Worker has therefore prayed that Hon'ble Tribunal may set aside the punishment/dismissal order and workman may be reinstated with full back wages and his services may be treated to be continued from the date of his appointment.

Management case in brief is that the claim is time barred. The industrial dispute has been raised after 8 years of the dismissal. The workman conferred all his fraudulent acts vide his letter dated 17-11-89 & before the enquiry officer on 22-4-91 during the course of enquiry worker's fraudulent acts were not of innocent nature, rather deliberate and well planned well thought & malafide intention. It is submitted by the bank that during the course of enquiry inquiry officer himself has made it clear to the claimant/CSE that his confessional statement could be used against him as a document to prove charge. The bank is a financial institution and dishonesty of the worker has tarnished the image of the bank and the worker is liable for recovery of the money misappropriated by him alongwith the interest. Any compelling situation do not allow the worker to misappropriate the money from the Bank's account holders once or more. After the acceptance of the charges before the enquiry officer, the enquiry officer concluded the enquiry as per rules. The workman conferred vide letter dt. 17-11-89, before the enquiry officer on 22-4-91 & before the Disciplinary authority during the personal hearing. He repeatedly withdrew money from different accounts of valuable clients of the bank who had reposed their confidence in the bank, so taking any lenient view for such repeated gross misconducts of misappropriation of funds would convey wrong signals to other staff members. Then to save the image of the bank, worker was rightly dismissed from Bank's service. The grounds taken by the worker are not tenable. After admission/acceptance of the charge, no witness was required nor the workman demanded any cross examination also. Further worker did not produce any witness, documents on his own in his defence. The worker never demanded any document rather he preferred to accept the charges. Inquiry was therefore rightly conducted. Charge sheet contains 5 charges and not two and in the final order dated 22-6-92 the worker was awarded a consolidated punishment of "Dismissal" with immediate effect.

The management of the bank has submitted that the Regional Manager is ex-officio appointing authority, as such he is Disciplinary Authority and accordingly the Zonal Manager is appellate authority. In para (5) of the claim petition the claimant has stated "..... the workman was served with a charge sheet by the disciplinary

authority.....workman."

And in para (5) of the claim application before Asstt. Labour Commissioner (C) dt. 23-5-2000 the claimant has stated "That..... made on 22-6-92 against which..... to appellate authority..... for making confession of my own without any provoking and depositing the money.

The management of the bank has also submitted that the findings or the enquiry officer also based on the evidence, confession of the guilt by the claimant, worker is therefore not entitled to any relief.

Worker has not filed any document alongwith his statement of claim. On the other opposite party bank has filed proceedings of enquiry paper no. 4/9 to 4/13.

1. Photocopy of charges dt. 12-9-90 paper no. 4/14 and 4/15

2. Photocopy of application of worker Jasbir Singh addressed to Asstt. Labour Commissioner (c) Dehradun in conciliation proceedings paper no. 4/16 to 4/18.

3. Photocopy of final order dt. 22-6-92 regarding punishment.

At a belated stage vide list paper no. A1-21 worker Jasbir Singh has filed following documents:

1. Photocopy of letter of Regional manager dt. 5-6-90 about appointment of Jasbir Singh on a deputation paper n.b. 21/1

2. Photocopy of letter dt. 7-9-91 of management about deputation of Jasbir Singh paper no. 21/2

3. Photocopy of letter dt. 11-1-92 of management directing the worker to work at BO. Patla paper no. 21/3

4. Photocopy of letter of management of the bank addressed to the worker for reporting at branch office Balem paper no. 21/4

5. Photocopy of letter of Jasbir Singh dt. 17-11-89 addressed to the management of the bank paper no. 21/5 21/7

6. Photocopy of charge sheet dt. 12-9-90

7. Photocopy of reply to charge sheet no. 21/10

8. Photocopy of letter of management addressed to Mr. MJ Juneja, Disciplinary authority dt. 7-4-91 no. 21/11.

9. Photocopy of report dt. 7-5-91 paper no. 21/12 to 21/15

10. Photocopy of departmental proceeding paper no. 21/17 to 21/23.

11. Photocopy of letter of disciplinary authority addressed to the worker affording the opportunity of personal hearing to the worker dt. 8-11-98 paper no. 21/24

12. Photocopy of disciplinary authority addressed to worker in the form of final order dt. 22-6-92 no. 21/25

13. Photocopy of final order dt. 22-6-92, paper no. 21/26

14. Photocopy of letter of Jasbir Singh the worker addressed to the appellate authority dt. 20-7-92

15. Photocopy of mercy appeal addressed to CMD 21/29.

Opposite party has filed additional documents with the list C-24;

1. Photocopy of confession dt. 17-11-89 paper no. 25/1-3

2. Photocopy of charge sheet dt. 12-9-90

3. Photocopy of report no. 25/6 to 25/9

4. Photocopy of departmental proceedings no. 25/11 to 25/16

5. Photocopy of final order dt. 22-6-92 no. 25/17

6. Photocopy of order of appellate authority dated 23-2-93

Worker has examined himself as a witness.

Opposite party has examined Sri PS Kapoor Manager khurza branch of the bank, Bulandshar.

Since the worker alleged that the departmental enquiry was not conducted in accordance with principle of natural justice and has also stated that findings of the enquiry officer is perverted. On 3-6-03 two issues were framed which are as under;

1. Whether the departmental enquiry has been conducted in violation of principle of natural justice as alleged by the workman in his statement of claim.

2. Whether the findings of the enquiry officer is illegal and perverted.

Both the issues have been decided against the worker on 4-9-06 thereafter the worker did not produced any evidence nor the opposite party produced any evidence.

On 22-10-07 worker appeared and opposite party did not appeared. Worker representative submitted orally that the punishment inflicted of the worker is shocking disproportionate with the misconduct therefore the court should exercise its discretion under section 11-A and reduced the punishment inflicted, so that the worker derived the benefits of retirement as he has already completed 60 years of age and no other argument were forwarded.

No doubt it is true that the worker admitted the charges and liability of the charges vide his letter dated 17-11-89 before issuing of the charge sheet itself. Worker also admitted the charges during the proceedings of the enquiry as it is evidence from the photo copy of the enquiry proceeding. Money involved has also been recovered by the bank except interest.

Section 11-A of the ID Act empowered to the Industrial Tribunal/Labour Court to set aside the order of discharge or dismissal if it is satisfied that the order of discharge/ dismissal was not justified.

Section 11-A of the Act can not be considered as arbitrarily power on the industrial tribunal/labour court it is well settled law that power under section 11-A has to be exercised judicially and the industrial tribunal/labour court is expected to interfere with the decision of management under section 11-A only when it is satisfied that the punishment imposed by the management is highly disproportionate to the degree of the guilt of workman concerned.

The learned representative of the worker has filed (1987) 4 Supreme Court Cases 691 Christian Medical College Hospital employees union and another vs Christian Medical College Vellore Association and others and state of Tamil Nadu vs Christian Medical College and others, I have gone through the said case law.

In the present case the worker repeatedly withdrew money from the different accounts of valuable customers of the bank who had reposed their confidence in the bank, so taking any lenient view for such repeated misconduct of misappropriation of fund is such a gross misconduct which can not be tolerated by any of the bank management. committing the gross misconduct and thereafter admitting is no excuse even depositing the money does not exonerate worker from the punishment. The disciplinary authority has observed that " Mr Jasbir Singh withdrew money fraudulently from the different accounts of valuable clients of the bank who had reposed their confidence in the bank and placed their hard earnings/savings..... Sri Jasbir Singh prejudicated to the interest of the bank and involved the bank in a pecuniary loss. So taking any lenient view for such repeated gross misconduct would convey wrong signals to other staff members in particular and to public in general.

I have, therefore, come to the conclusion that the proposed punishment cannot be reduced and it should be confirmed, I therefore, interest of general public who constitute our esteemed clientage, impose the following punishment on Mr. Jasbir Singh the chargesheeted employee who is found guilty as charged."

Looking into gravity of the misconduct of the workman I am of the clear opinion that in the circumstances the bank management had no option than to dismiss the workman. Management of the bank can not be asked to retain or pay to a workman who has misappropriated the bank's money. "deposited by the different account holders." I am also of view that the punishment imposed on the worker is not shockingly disproportionate to the misconduct and in the circumstances the order of the disciplinary authority can not be interfered with. The dismissal of the worker vide order dt. 22-6-92 is just fair and legal. Issue is decided accordingly in favour of the management and against the workman & the workman is not entitled to any relief.

Lucknow SHRIKANT SHUKLA, Presiding Officer
2-11-2007

नई दिल्ली, 20 नवम्बर, 2007

का. आ. 3470:—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा-1 की उप धारा-(3) शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 01 दिसम्बर, 2007 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (44 व 45 धारा के सिवाय जो पहले से प्रवृत्त हो चुकी है)

अध्याय-5 और 6 (धारा-76 की उपधारा (1) और धारा-77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध उत्तराखण्ड राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :-

क्र. सं.	राजस्व ग्राम का नाम	राजस्व परगना	राजस्व तहसील	जिला
1	2	3	4	5
1.	भगवानपुर, भगवानपुर मु., भगवानपुर ज.मु. किशनपुर, किशनपुर जमालपुर, करौन्दी, सालियर सालहापुर, मतलबपुर, सिकन्दरपुर, भैसवाल, पुहाना, रायपुर, नल्हेड़ा अनन्तपुर, सिसौना मु., सिसौना ज.मु., लकेश्वरी माखनपुर बन्दाखेड़ी, सलैमपुर राजपुताना ।	भगवानपुर रूड़की	हरिद्वार	
2.	भंडवार, माधोपुर हजरतपुर, रसूलपुर, शाहपुर, सालहापुर, इकबालपुर, कमेलपुर, खाता खेड़ी, पाड़ली, गन्दा. सरकड़ी ताहरपुर, सोलहपुर, गाडा. नल्हेड़ी, इब्रहिमपुर देह, इकबालपुर देह, रूहालकी- दयालपुर, प्रेमराजपुर, सरढेड़ी शाहजहापुर, कादरपुर अली- पुरखतौला, खेलपुरनसरूलापुर, शेरपुर, मोहितपुर, शाहपुर मु. शाहपुर ज.मु., आलमपुर मु., आलमपुर ज.मु., खानपुर, लतीफपुर, खुब्बनपुर मु., जतीफपुर, खुब्बनपुर मु. ज., लाव्वा मु., लाव्वा मु.ज., गी मौ. सईदपुर मु., गी मौ. सईदपुर मु.ज., सिसौना मु., सिसौना मु.ज., हापर शेर अफगानपुर, मन्डावर, चौली शहाबुदीनपुर मु., चौली शहाबुदीनपुर मु.ज.	भगवानपुर रूड़की	हरिद्वार	

[संख्या: एस-38013/30/2007 एस.एस.-1]

एस. दो. जेबियर, अवर सचिव

New Delhi, the 20th November, 2007

S.O. 3470.— In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 2007 as the date on which the provisions of chapter IV (except sections 44 and 45 which have already been brought into force) and Chapter -V

and VI (except of sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Uttarakhand namely:—

Sl. No.	Name of the Revenue village	Revenue Pargana	Revenue Tehsil	District
1	2	3	4	5
1.	Matlabpur, Saliyar, Kishanpur Jamalpur, Nalheda Anantpur, Karondi, Kishanpur, Bhagwanpur Must., Bhagwanpur, Makhanpur, Raipur, Banta Khedi, Sisona, Saliyar, Salahpur, Sikandarpur Bhainswal, Lakeshwari, Puhana, Madhopur, Salempur Rajputana.	Bhagwanpur	Roorke	Haridwar

1	2	3	4	5
2.	Bhandawar, Madhopur, Hajratpur, Rasolpur, Sahpur Salahpur, Iqbalpur Kmailpur, Katha Khedi, Padliganda, Sarkadi Taharpur, Sohalpur Gada, Nalhadi, Saliyar Salahpur, Iqbalpur Deh, Ibrahimpur Deh, Khelapur Nashrullapur, Sherpur, Mohitpur, Ruhalki Dayalpur, Premrajpur, Sardahisajhapur, Kadarpur Alipur Kathola, Sahpur, Makanpur Mahmood Alampur, Khanpur, Lathifpur Khubampur, Lawa, Ge Moh Sayedpur, Hapar Sher Afganpur, Mandwar, chawoili Shabudinpur.	Bhagwanpur	Roorke	Haridwar

[No.S-38013/30/2007-S.S.I]

S. D. XAVIER, Under Secy.